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ROYAL COMMISSION
ON
TRANSPORTATION

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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO,
THURSDAY,
DECEMBER 15, 1949.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN
HAROLD ADAMS INNIS - - COMMISSIONER
HENRY FORBES ANGUS - - COMMISSIONER

G. R. Hunter,
Secretary

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Asst. Secretary.

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J.O.C. Campbell, K.C.		
)	Province of Prince Edward Island

Thursday, December 15, 1949.

MORNING SESSION

---The Commission met at 10.30 a.m.

MR. COVERT: Mr. Chairman and members of the Commission: Mr. Shepard wishes to make a statement before the C.P.R. calls its next witness.

THE CHAIRMAN: All right, Mr. Shepard.

MR. SHEPARD: Mr. Chairman, I have prepared a statement that I have been instructed to place on the record by my Government, but before doing so some time ago I think it was you, Mr. Chairman, asked what the provisions were in the Manitoba Municipal and Public Utility Act which gave some control to the Government, and I thought I would put those references on the record first. The Act is 1940, R.S.M., Chapter 142. Sections 23 and those following deal with procedure, and give to the Public Utilities Board of Manitoba, so far as procedure is concerned, the same powers as those possessed by a King's Bench Judge. Section 25 of the Act reads as follows:

"The Board may of its own motion, and shall upon the request of the Lieutenant Governor in Council, enquire into, hear and determine any matter or thing within its jurisdiction."

Section 57 dealing with appeal permits an appeal to the Manitoba Court of Appeal on questions of jurisdiction, law and fact. Section 154 requires the Board to transmit the annual report to the minister named in the Act who is the Manitoba Municipal Commissioner. I think those are the only relevant sections in the Public Utility Act of Manitoba.

THE CHAIRMAN: Pardon me a moment; would you

tell me the last one?

MR. SHEPARD: The last one is section 154, and it requires the Public Utility Board to transmit the annual report to the minister.

THE CHAIRMAN: I think you have shown there that the only appeal from this Board is one on matters of law and jurisdiction?

MR. SHEPARD: And fact, as well, to the Manitoba Court of Appeal.

THE CHAIRMAN: I see; all right.

MR. SHEPARD: The statement, Mr. Chairman and members of the Commission, is in reference to the Chairman's remarks which appear in Volume 50 of the transcript from pages 9565 to 9567.

Your Commission has intimated that it would be desirable to have the Manitoba Government review the position taken by it with regard to the duty and responsibility of the Dominion Government toward the Board of Transport Commissioners, in the last pages of Chapter 2 of its submissions.

I am instructed to state that this position was reviewed at a meeting of the Manitoba cabinet on November 26 and the position has been confirmed.

The Manitoba brief makes two basic submissions with reference to the regulation of railways in Canada.

Firstly, we say that the Board should exercise more fully than it has in the past its wide powers under the Railway Act and that its staff should maintain a constant review and supervision over the rate structure and the standard of service (i.e. expenses) of the railways.

Secondly, we say that railway transportation in Canada is too vital a factor in the national economy

to be regulated only by an independent tribunal such as the Board of Transport Commissioners without the ultimate responsibility for such regulation resting with the Dominion Parliament and the Dominion Government. The ultimate responsibility for the Board, of course, now rests with Parliament since Parliament may change the Railway Act or personnel of the Board. Manitoba's position is that this control is somewhat less than what is desirable and that the Dominion Government should have power to direct the Board if occasion should arise in order to ensure that the attitude and actions of the Board are not inconsistent with the Dominion Government's view as to what is in the best interests of Canada from the standpoint of national economic policy.

In short, it is Manitoba's submission that the Board should be strengthened so that it is better able to formulate and administer national railway transportation policy but the Dominion Government should be empowered to direct the Board in any case where it may consider it necessary to do so in the interests of national economic policy. The power suggested to be vested in the Dominion Government to direct the Board would be limited as follows:

- (1) Direction could not be inconsistent with the Railway Act.
- (2) Direction should be on policy matters only.
- (3) Government control over the disposition of any particular issue properly before the Board to be that suggested by Manitoba as an amendment to Section 52(1) of the Railway Act.

The viewpoint just stated has already been expressed in the following language found at pages

56 and 57 of the Manitoba printed submissions:

" . . . we feel that your Commission should recommend that in any revised Railway Act there should be a clause which gives to the Dominion Government the responsibility and the authority to disallow or to vary any order of the Board. Furthermore, in cases where the Railway Act has laid down only the general lines of policy, the result will inevitably be that in many situations there will be several alternative policies which might be adopted, all of them perfectly consistent with the general policy laid down in the Act. In situations such as these we feel that it should be made clear that the Dominion Government has the authority to designate which of those alternative policies is to be applied. We feel that the Dominion Government should have the power and the responsibility to take such actions either on its own motion or upon application.

It is true that a properly constituted Board which is aware of its functions and responsibilities, will generally arrive at decisions which are quite consistent with the public interests. Under such circumstances, any significant number of interventions by the Dominion Cabinet would be unfortunate in that they would destroy the usefulness of the Board as a maker of policy. A competent Board should be left free to use its own judgment within the limits of the Railway Act. At the same time, it is certainly conceivable that a misjudgment of where the public interest lies, or perhaps an inadequate appreciation of the complex situation upon which it is called to

rule, may lead some future Board into serious mistakes. It is to ensure against such an unlikely but entirely possible eventuality, that we urge that an avenue be left open for a review of the situation by the highest policy-making body in the country."

(Page 13842 follows)

An illustration of the concept that Government must retain ultimate control of and responsibility for matters affecting the national interest is found in the Aeronautics Act 1927 R.S.C. cap 3 as amended by 1944 8 Geo VI cap 28 and 1945 9 Geo VI cap 9. The original Act was passed in 1919 and amended in 1922 before inclusion in the revision of 1927. The purpose of the Act is to provide the machinery for what the Government considers to be the necessary supervision and control of air transportation in all its phases in the same relative manner as the Railway Act seeks to supervise and control railways.

In the first Act in 1919 the Minister of National Defence was the responsible member of the Government. This is understandable since at that time the commercial possibilities of air transportation had not begun to be realized. In the amendment of 1944, the Minister of Transport was given control, which he still exercises, notwithstanding the creation in that same year of the Air Transport Board, a tribunal of similar functions in the field of air transportation as those vested in the Board of Transport Commissioners in the field of rail transportation.

The measure of Government control retained over the Air Transport Board is illustrated by reference to the following sections found in the 1944 Amendment to the Aeronautics Act:

"9. Subject to the directions of the Minister, the Board shall from time to time make investigations and surveys relating to the operation and development of commercial air services in Canada and relating to such other matters in connection with civil aviation as the Minister may direct.

10. The Board shall from time to time make recommenda-

tions to the Minister with reference to any investigation or survey made by it and shall advise the Minister in the exercise of his duties and powers under this Act in all matters relating to civil aviation.

11. Subject to the approval of the Governor-in-Council, the Board may make regulations -
 - (a) requiring air carriers to file with the Board returns with respect to their capital, traffic, equipment, working expenditure and any other matters relating to the operation of commercial air services;
 - (b) requiring any person to furnish information respecting ownership, transfer, consolidation, merger or lease or any proposed transfer, consolidation, merger or lease of commercial air services;
 - (c) requiring copies of agreements respecting any such consolidation, merger, lease or transfer, copies of mail contracts and proposed mail contracts and copies of agreements affecting commercial air services to be filed with the Board;
 - (d) prohibiting the transfer, consolidation, merger or lease of commercial air services except subject to such conditions as may by such regulations be prescribed;
 - (e) prescribing fees for licences to operate commercial air services and requiring applicants for such licences to furnish information respecting their financial position, their relation to other air carriers, the nature of the proposed routes, the proposed tariffs of tolls and such other matters as the Board may consider advisable;

- (f) prescribing forms for the purposes of this Part;
 - (g) respecting traffic, tolls and tariffs, and providing for the disallowance or suspension of any tariff by the Board, the substitution by the licensee of a tariff satisfactory to the Board or the prescription by the Board of other tolls in lieu of the tolls so disallowed;
 - (h) prescribing the term of the licence and providing for renewal thereof;
 - (i) prescribing maximum hours and other working conditions for pilots and co-pilots employed by any aircarrier;
 - (j) prescribing forms of accounts and records to be kept by air carriers, and providing for access by the Board to such records;
 - (k) prescribing penalties, enforceable on summary conviction, for
 - (i) contravention of or failure to comply with this Part or any such regulations or any direction or order made by the Board pursuant to this Act or such regulations, or
 - (ii) making any false statement or furnishing false information to or for the use or information of the Board, or
 - (iii) making any false statement or furnishing false information when required to make a statement or furnish information pursuant to any regulation, direction or order of the Board;
- such penalties not to exceed a fine of five thousand dollars or imprisonment for six months, or both such fine and such imprisonment.
- (l) providing for the effective carrying out of

the provisions of this Part;

(cc) establishing classifications or groups of air carriers;

(dd) excluding from the operation of the whole or any part of this Part or any regulation, order or direction made or issued pursuant thereto, any air carrier or class or group of air carriers."

The submission of the Manitoba Government does not envisage so great a measure of Government control over the Board of Transport Commissioners as that exercised by the Government over the Air Transport Board under the Aeronautics Act. It is, however, Manitoba's submission that the attitude of Parliament, as expressed in that Act toward control of air transportation, is sound, since air transportation is admittedly an important factor in Canada's national economy both in times of war and in times of peace. In size and importance in the Canadian economy, rail transportation is a greater factor than air transportation and it is therefore Manitoba's opinion that the Dominion Government must retain the power and responsibility outlined in its submission and in this statement.

Then, Mr. Chairman, we have at the request of the Commission drafted certain amendments to the Railway Act. They are amendments to sections 33, 36, 38 and 52(1), and I would ask that they be included in the record for the information of those interested.

AMENDMENTS TO THE RAILWAY ACT

Suggested by Manitoba:

SECTION 33

To be amended by adding Sub-sections (6) and (7) as follows -

- "6. Notwithstanding the provisions of Sub-section (2) of Section 9 of this Act the Board is an administrative tribunal and its orders, decisions, rules or regulations shall be construed accordingly. The Board shall not be bound in any way by its previous decisions, procedure or practice."
- "7. Upon any hearing the Board may hear any evidence which in its opinion is relevant to the matter but shall not be bound by the legal or technical rules of evidence nor shall it be restricted to making a decision based only upon the evidence taken at a hearing."

SECTION 36

To be amended by adding the following, as Sub-section (2) -

- "2. It shall be the duty of the Board to act on its own motion in respect to matters under its jurisdiction when in the opinion of the Board such action is in the public interest and particularly in the matter of just and reasonable rates."

SECTION 38

To be amended by adding the following, as Sub-section (2) -

- "2. The Governor-in-Council may also give general directions to the Board in respect to the policy to be followed by the Board in the exercise of its jurisdiction under this Act."

SECTION 52 (1)

To be amended to read as follows:

(changes as underlined) -

- "1. The Governor-in-Council may at any time, in his discretion, either upon petition of any party, person or company interested, or of his own motion,

and without any petition or application, review, rescind, change, alter or vary any order, decision, rule or regulation of the Board, whether such order or decision is made inter partes or otherwise, and whether such regulation is general or limited in its scope and application, and remit any matter to the Board with directions respecting the disposition thereof; and any order which the Governor-in-Council may make with respect thereto shall be binding upon the Board and upon all parties.

THE CHAIRMAN: Mr. Shepard, we have gone over this and heard it read by you; of course, we will have to discuss it later as a matter of argument, but in the meantime I wish you would, if possible, more clearly define for us just what you mean by the word "policy" which appears throughout. You see, the word "policy" is susceptible of a very broad application. For instance, we heard the other day that the policy of the United States Congress is that both shipping and railway traffic should remain in full vigour. The word "policy" is applied to such a declaration by Parliament as that; but in some questions addressed to Mr. Moffat when he was here it struck me that his idea of the word "policy" was very much narrower, so I think -- I am telling you now, for later on -- it would be well to do as much as you can to define more clearly what you mean by "policy".

Then again, I notice in referring to the Board and asking for this supervision, control and direction by the Government over the Board in certain cases you talk of a properly constituted Board and a competent Board. It seems to me as if that was something exceptional. Do you mean to say that the question of whether a Board is com-

petent or properly constituted depends on the personality of the Board from time to time, or what do you mean?

MR SHEPARD: I am afraid that it does to a very considerable extent.

THE CHAIRMAN: Then who is going to judge whether a given Board in a certain year is a competent Board or, as you put it, a properly constituted Board? Look into those things, please, and we will hear from you about them, because they may raise questions.

MR EVANS: Mr. Chairman, I have no intention of making any extended statement. I do want to say that my friend was good enough to send me a copy of this statement last night, but owing to preoccupation with other matters I had not an opportunity of seeing it. I do want to say this, that it leaves me in very considerable doubt as to the extent to which we may now read the transcript of Mr.

Moffat's evidence with reference to these questions and determine whether Mr. Moffat was saying something which is consistent with this newly-announced policy or not. For example, it is important for us to know whether the kind of thing that Mr. Moffat said the Government should have power to do is within or without this new policy.

I have in mind a specific case. You will remember, perhaps, that Mr. Moffat in reply to some questions from me said that he thought that if the Board should find that the railways were entitled say to 25% increase the Government should have the right to say to the Board, it should be 20%. Now, when Mr. Shepard read this statement he suggested that, while he did not envisage so great a measure of control as existed in the case of the Aeronautics Act, he did say, "We feel that your Commission should recommend an amendment to the Act giving to the Governor-in-Council the power to disallow or vary any order of the

Board." Does he disavow Mr. Moffat to any extent, and if so to what extent? I think we are entitled to know more definitely than my friend has put it.

MR SHEPARD: Mr. Chairman, I do not want to put our argument forward now.

THE CHAIRMAN: No, no.

MR SHEPARD: But I do want to make it quite clear to the Commission and to my friend that this is not a statement of any new policy that I have just put forward. If there is some measure of doubt in any aspect of Mr. Moffat's evidence, this statement is expressing the view of the Manitoba Government, and as far as we were concerned Mr. Moffat's evidence did the same thing.

THE CHAIRMAN: In any case, Mr. Shepard, I will say that since you have put your desire and intentions into a form of amendment to the Railway Act, there is where we are to look now.

MR SHEPARD: Yes, sir.

THE CHAIRMAN: But, as I told you, there are certain words even in your draft that will require explanation when the time comes to argue.

I do not think I need say any more, Mr. Evans; we can leave things as they are; Mr. Shepard understands the situation.

MR COVERT: Mr. Hume wishes to make a statement. I think it arises out of a suggestion---

THE CHAIRMAN: It is something else?

MR COVERT: Yes.

MR HUME: Mr. Chairman, in volume 55 of the transcript, on November 29th, Mr. Evans made a very complete statement as to the mechanics of the movement of freight by rail from the United States into Canada, and unfortunately, owing to circumstances over which I had no control, I was

not present at that time. At page 10677 you, Mr. Chairman, requested a similar statement from me as to the mechanics of how the freight moves by truck, and that statement has only just come to my hands this morning, and I thought that I would just place it on the record so that the lapse is not too many days, so that it can be found with some convenience.

(Page 13854 follows)

The situation which was under discussion arose from the submissions of the Canadian Automotive Transportation Association as to the different treatment between freight moving into Canada by rail and by truck, and, as I say, Mr. Evans explained the situation by rail and the following is my information with regard to the movement of goods by truck. On traffic consigned by a United States exporter for a delivery to a Canadian point, the United States exporter makes out an export declaration described as United States Commerce Form 7525 - V. This declaration is the same form used for shipment by rail, air, or by truck. When the shipment reaches the Canadian port of entry, the United States export declaration is surrendered, and up to this point rail and highway traffic receive the same treatment. Thereafter, the rail traffic moves under a bond filed with the Canadian Department of National Revenue to its Canadian destination under manifest as explained by Mr. Evans. The consignee in that case may attend to the customs formalities at the point of destination.

For highway traffic, however, goods can only enter Canada by motor vehicle subject to Customs inspection and payment of duties at the Canadian frontier point of entry, at the border. This procedure is prescribed in Canadian Customs Memorandum, Series D, No. 8, second revision, paragraph 6. As required by the Canada Customs Act, Section 106, merchandise is removed by a trucker for customs examination and then reloaded. Proper invoices must be produced for purposes of goods classification and valuation by Canadian Customs officials and the absentee Canadian consignee, the consignee who may live inland two hundred or three hundred miles, is represented for this purpose by a Customs Broker. Such brokers must be duly appointed under seal under

Departmental Form E65. The broker pays the duty, which he subsequently collects from the Canadian consignee. upon completion of these details the goods may then proceed to an inland point for delivery by truck.

In many cases a United States exporter fails to provide invoices in the proper form as well as power of attorney to the Customs Broker. In such cases the goods are held by the trucker awaiting proper documentation. The trucker is unable to deposit the goods on Canadian soil pending the arrival of the papers by reason of Customs Warehouse Regulations issued by the Customs Division of the Department of National Revenue described as Series D. No. 130, dated March 1, 1946. There is no authority for the storage of imported goods moved by highway and consequently there is a congestion of highway vehicles at Canadian ports of entry, if the United States exporter has not for some reason or other completed the proper invoices in the proper form.

It is also of interest to note that a Canadian consignee is not present when the goods are classified. That is done through the Customs Broker and if he wishes to personally supervise the Customs classification and avoid any dispute he must travel himself from his place of business to the port of entry if the goods are coming in by truck.

I think, Mr. Chairman, that is all the information I have on the point and I think it perhaps illustrates the difference between the movements of goods by the two methods. If the United States exporter has completed his invoices and everything exactly correctly and if he has appointed the Customs Broker under seal as required, then the only requirement is that they must remove the goods from the truck, inspect them, classify them, charge the duty, put them back on and they can proceed forward. I am not attempting

to suggest that in all cases the goods are held up for any length of time but the fact is at certain times and under certain conditions there is a very severe congestion of these vehicles at border points.

THE CHAIRMAN: Well, shall we get on with the Canadian Pacific case?

- - - - -

MR. C.E. JEFFERSON, CALLED

EXAMINED BY MR. CARSON

Q. Mr. Jefferson, in the first instance, I want to put before the Commission a brief review of your biography. You commenced your railway service with the Canadian Pacific Despatch in Boston Massachusetts, where you were the office boy from September 10, 1906 to November 15, 1911, and then, during that period, you were also Bill of Lading Clerk, Tracing Clerk and had to do with the publication of tariffs and division sheets and then you were attached to the Joint Tariff Bureau of the Boston & Maine, the Maine Central, and the New York, New Haven and Hartford Railroad November 15, 1911 to March 13, 1913. You have been with the Canadian Pacific Railway since March 17, 1913, and your first position with that Company was as Percentage Clerk in the Tariff Bureau at Montreal from March 17, 1913, to December 15, 1915, and then you became Assistant General Freight Agent at Montreal from December 15, 1915, to June 16, 1921. You became Acting Chief Freight Agent at Montreal on June 16, 1921, and held that post until December 1, 1922. Then you became General Freight Agent at Winnipeg Manitoba, a post you held from January 1, 1922, to July 1, 1927, and then you were promoted the Assistant Freight Traffic Manager with headquarters at Winnipeg and you

remained in that capacity from July 1, 1927, to June 1, 1930. You were then appointed Freight Traffic Manager, at Montreal, a post you held from June 1, 1930, to March 1, 1948. You then became General Traffic Manager, at Montreal, a post you have occupied from March 1, 1948 and then I see by an announcement in the Montreal Gazette of this week that you have been appointed Vice President of Traffic, that appointment to become effective January 1, 1950, and may I just say that that is an announcement that those of us who have been closely associated with you on the railway side for the last several years have relieved with great pleasure.

A. Thank you very much.

MR. FRAWLEY: My lord, and members of the Commission, it was with a great deal of personal pleasure that I read in this morning's paper, that my old friend, Mr. Jefferson, had been made Vice President of Traffic for the Canadian Pacific Railway. Mr. Jefferson spent some of his service in Western Canada, and those of us who had business to do with him got to like him very much. It certainly is an honour to Mr. Jefferson, to be named Vice President of the Canadian Pacific, but it certainly is, in my opinion, an honour to the Canadian Pacific, that it should have as Vice President of Traffic, Mr. Jefferson, and speaking for myself, and for my colleagues of the provinces, we wish Mr. Jefferson long years of pleasurable occupation as a Vice President of the great railroad, the Canadian Pacific.

MR. O'DONNELL: It has already been my pleasure, Mr. Chairman, to extend my congratulations to Mr. Jefferson personally. We all like Mr. Jefferson very much and admire him greatly.

THE CHAIRMAN: Well, we all seem very pleased with this appointment.

THE WITNESS: I would like, if I may, Mr. Chairman and Commissioners, to thank everyone for their generous and sincere congratulations on my change in position, and I have had very pleasant relations with a lot of the counsel here and others in the room who assist counsel for the railway side and the provinces' side, and we have enjoyed our association very much.

MR. CARSON: Now, as an introduction to your evidence Mr. Jefferson, I want to read first, or invite the attention of the Commission and yourself to page 36 of the Canadian Pacific submission, Part I, and I would like to read paragraphs 33 and 34 of the outline submission.

"33. Canadian Pacific believes that the present system of establishing and controlling freight rates tends to produce transportation charges which encourage the development of Canada along sound economic lines, and compensate for geographic disadvantages as far as it would be safe to endeavour to accomplish this by means of the freight rate structure."

(Page 13860 follows)

"34. The impression prevails in many quarters the the people of Canada are at a disadvantage in respect of transportation charges as compared with those in the United States, and that, owing to the independent economic existence of this nation forcing -- as the statement is sometimes put -- trade into East and West Channels, while North and South movement would be normal, Canadian producers and consumers suffer from improperly high transportation charges. In the first place, the great volume of internal trade in the United States moves East and West as in Canada, and over similar distances. In the second place, the present freight rate system of Canada provides, for the great bulk of the movement of goods, freight rates which are lower, not higher, than those charged in the United States for similar movements over similar distances. The economic union of Canada with the United States, bringing with it a freight rate system in this country such as now exists in the United States, would greatly increase, not decrease, the burden of transportation charges on the producers and consumers of Canada and the bulk of the traffic would continue to move as long distances as at present."

And then, two sentences on the next page, which will serve to introduce the first question I will put to you. On page 37 the statement is made:

"Canadian Pacific submits that Canadian railways have gone as far as would be desirable in the direction of providing low transportation rates. If they have erred at all, they have done so in the direction of making many transportation charges lower than was necessary for the economic development of Canada."

Now then, Mr. Jefferson, have you in mind any commodities on which low rates were established in what

you consider to be in the best interests for the economic development of Canada, and which should, as the opportunity presents itself, have a rate more in keeping with the value of the service rendered, or rates more comparable with those paid by traffic of a somewhat similar nature?

A. Yes sir. I have in mind, as you mention, a few commodities which come within this sphere.

Q. First?

A. First, the rates on settlers' effects. Second, the rates on livestock, where the revenues or earnings are shown on Table 2 on page 133 of Part 11. The rates on coal from Alberta to Ontario, where we show examples of revenues on page 84 of the Appendix to Part 1. The rates on fuel wood, and rates on livestock for exhibitions.

Q. Yes. Then, in the brief, in the submission from pages 36 to 48 with which I am sure you are familiar, comparisons are made of the economic development of Canada and the United States as a whole and by contiguous regions. And on page 38 we find a section under the heading of "Canada"; and then on page 41, we find a heading "The Maritime Provinces, compared with the Northern New England states Maine, New Hampshire and Vermont". And at page 42 we find another section headed "The Prairie Provinces, compared with the Spring Wheat States of the United States". And on page 44 we find a comparison of British Columbia with the State of Washington. What have you to say as to the comparison of these areas in relation to railway operating conditions and the level of rates?

A. Well, it always seemed to me that railway operating conditions prevailing in the Northern part of the United States immediately south of the international border are fairly comparable with such conditions in Canada.

Q. Yes.

A. And with this thought in mind, it would not be unfair to make a comparison of rates charged by railways in the Northern part of the United States with the rates in Canada.

Q. What railways have you in mind?

A. The railways south of the international boundary from the Atlantic to the Pacific whose rates could more properly be compared with those of the Canadian Railways are the Bangor & Aroostook Railroad in Maine; the Main Central Railroad, in Maine; the New York Central System; the Great Northern Railway; and the Northern Pacific Railway.

Q. I think you felt it would be helpful to the Commission and counsel, if, at this stage you put before the Commission and counsel a map on which the places you are about to refer to could be seen.

A. Yes sir. I thought that if we distributed a map, it would help in following my evidence better.

THE CHAIRMAN: Is it to be an exhibit?

MR. COVERT: Yes, Mr. Chairman. It will be Exhibit 141.

EXHIBIT 141 filed by MR. Carson Map of "Canadian Pacific Lines and connections with United States Railways"

MR. CARSON: Q. Now, Mr. Jefferson, we have heard a lot about the amount by which the freight rates to Maritime destinations exceed the rates to Montreal. Have you any information as to the amount by which the freight rates to New England destinations exceed the rates, let us say, to Boston? And I shall assume that the places you are going to refer to are shown on the map, Exhibit 141.

A. Yes sir. I prepared a short statement which I would like to file, showing the amount by which the first

and fifth class rates from Toronto, Windsor, and Winnipeg to St. John, New Brunswick, exceed such rates to Montreal as compared with the amount by which the first and fifth class rates from Buffalo, N.Y., Detroit, Michigan, and Minneapolis, Minn., to Bangor, Maine, exceed such rates to Boston.

Q And that statement, Mr. Chairman, will be filed as Exhibit 142.

EXHIBIT 142 FILED by Mr. Carson.

"Statement showing Differences over Montreal In Class Rates between Points in Canada to and From the Maritime Provinces, as compared with Difference over Boston in Class Rates Between United States Points to and from Destinations in New England."

MR. CARSON: Q. Now, what does this statement indicate, Mr. Jefferson, in a general way?

(Page 13865 follows)

A. This statement indicates the differences in rates to Bangor, Maine, compared with those to Boston are greater than the differences in rates to Saint John compared with those to Montreal.

Q. Is Boston a key point in the United States?

A. Yes, sir. I might say while traffic moving from Buffalo, Detroit and Minneapolis to Bangor might not travel through Boston, yet it would move through Boston rate territory, and Boston is a key point and Bangor, Maine, is also a key point in making rates between the points that I have selected.

Q. Perhaps you might tell the Commission, because I think it is fundamental to your statement, what is the distance from Boston, Massachusetts, to Bangor, Maine?

A. The distance from Boston to Bangor is 251 miles.

Q. Compared with that what is the distance from Montreal to Saint John, New Brunswick?

A. The short line distance from Montreal to Saint John is 488 miles. I might take --

Q. Just a minute, Mr. Jefferson. When you speak about the short line, I want it to be clear on the record that that is the C.P.R. line from Montreal to Saint John?

A. The C.P.R. line through Maine, yes, sir.

Q. Now, what would you say about this statement now that we have it before us?

THE CHAIRMAN: How far was it from Boston to Bangor?

MR. CARSON: 251 miles, Mr. Chairman, and Montreal to Saint John is 488 miles.

Q. Yes, Mr. Jefferson?

A. To explain this exhibit briefly, I might point out that from Toronto to Saint John the first-class rate

is 42 cents over the rate to Montreal.

Q. Pausing there, you are referring to the differences in class rates, I take it, first and fifth class?

A. That is right.

Q. You get the 42 cents shown on the exhibit by taking the rate from Toronto to Montreal, which is \$1.08, and the rate from Toronto to Saint John, New Brunswick, which is \$1.50, and that is what you call the spread over Montreal, 42 cents?

A. That is right. In the case of Buffalo to Bangor, Maine, the first-class rate is \$2.95 while to Boston it is \$2.29 and the spread over Boston is 66 cents.

Q. Although the distance is 251 miles from Boston to Bangor compared with 488 miles from Montreal to Saint John?

A. Yes, sir. That can be followed right across the statement under the heading "Eastbound" for the first and fifth class rates from Toronto, Windsor and Winnipeg to Saint John over Montreal with Buffalo, Detroit and Minneapolis to Bangor over Boston.

Q. In the case of the Canadian section of the exhibit you show three points of origin, Toronto, Windsor and Winnipeg?

A. Yes, sir.

Q. And you take the rates to Montreal and to Saint John and then show the spread?

A. That is right.

Q. I think in every case in this upper section of the eastbound rates the spread over Boston is higher than the spread over Montreal with two exceptions, the fifth-class rate from Windsor and the fifth-class rate

from Winnipeg?

A. Did you say from Windsor?

Q. Yes, the fifth-class rate from Windsor and the fifth-class rate from Winnipeg; they are the only two exceptions?

A. You mean Minneapolis, do you not?

Q. I should have said comparing Windsor as a point of origin with Detroit as a point of origin.

A. Oh, I see; yes, sir.

Q. I was pointing out the only two exceptions are in the case of the fifth-class rate, Windsor to Montreal, compared with Detroit, Michigan, to Bangor?

A. Yes, sir.

Q. I should have said Windsor to Saint John compared with Detroit, Michigan, to Bangor?

A. Yes, sir.

Q. The other one is from Winnipeg to Saint John compared with Minneapolis to Bangor?

A. That is right. The lower half of the statement has reference to the westbound rates, using the same points for comparative purposes. In the case of the rates to Bangor compared with Boston there is no difference; the westbound is the same as the eastbound, but the differences by which Saint John is over Montreal westbound is very much less than on the eastbound traffic, which is due to the Maritime Freight Rates Act.

Q. Could you perhaps illustrate that, Mr. Jefferson, by taking two figures that I see here in the upper section. I notice that from Winnipeg to Saint John the first-class rate is 31 cents -- the spread is 31 cents eastbound?

A. That is right.

Q. Then when one is going west from Saint John to Winnipeg the spread is 16 cents?

A. It is only 16 cents, yes, sir.

Q. Is that difference all attributable to the working of the Maritime Freight Rates Act?

A. Yes, sir.

Q. Would you tell the Commission in what way and why? I should like you to tell the Commission in what way and why there is that difference?

A. Well, one might ask why on westbound and eastbound as well, for that matter, that the amounts that Saint John is over Montreal in the case of Toronto and Windsor are higher than in the case of Winnipeg. That is due to a different set of arbitraries added to the Montreal rates in construction of through rates over westbound or eastbound. In 1922 the Board reduced the arbitraries over Montreal to and from western Canada, and in 1924 the railways voluntarily reduced the arbitraries on traffic to and from points in eastern Canada, but not to the same extent as was done in the case of western Canada. That was followed by the reduction in rates due to the passing of the Maritime Freight Rates Act, and in reducing the rates we did not reduce the arbitraries 20 per cent. What was done was that the reduction was based on 20 per cent of the proportion accruing east of Diamond Junction and Levis, determined on a mileage basis, that is, you determine the mileage east of Diamond Junction and the mileage west.

Q. That is the mileage proportion you are speaking of?

A. Yes.

Q. Mr. Jefferson, perhaps I am the only one in the room who does not understand this, but I am trying to point

to the spread of 31 cents as an illustration. You see in the case of Winnipeg eastbound, Winnipeg to Saint John, the spread is 31 cents.

A. Yes, sir.

Q. And then below that the spread on westbound traffic from Saint John to Winnipeg is 16 cents?

A. Yes, sir.

Q. And what I really wanted to know is if I am right in my assumption that the difference between those two is attributable to the operation of the Maritime Freight Rates Act?

A. Entirely, yes, sir.

Q. Then, Mr. Jefferson, if I may I should like to invite attention to page 45 of the Canadian Pacific submission, and I will read one paragraph from that page to introduce the next questioning. It is a paragraph in the middle of the page reading:

"Certainly, the economic history of Canada provides no support for any theory that either the general level of freight rates, or the method by which they have been established and regulated in the past, have been responsible for inhibiting the normal development of the nation. In this connection, Canadian Pacific draws particular attention to the comparison of freight rates in Canada with those in the United States."

Then there is part of a paragraph on page 46, towards the bottom of the page, which has reference to motor cars. I do not need to bother with the first sentence. It is about two-thirds of the way down the page, and reads:

"Freight rates on motor cars from Windsor to Prairie points are cheaper than those from Detroit to similar points south of the border. The same

thing is true of agricultural machinery, and it is equally true of lumber, which moves from British Columbia to Central Canada more cheaply than does lumber from the United States Pacific coast to the industrial areas of the Eastern and Central United States."

On page 47 there is one paragraph about eight lines down, reading:

"In discussing this question with reference to Western Canada there are many references to the fact that Canadian railways pass through a wide unproductive area north of the Great Lakes. So they do, but the burden of overcoming this disadvantage is no greater than if the alternative route through the United States south of the Great Lakes had been used. That burden has not caused railway rates between Central and Western Canada to be as high as those on the more fortunately situated railway lines in the United States. This is clear from the table of rates at pp. 52-53 of the appendix."

I would ask the Commission if they will be good enough to look at those pages of the appendix, and then I will ask you, Mr. Jefferson, to comment briefly on them.

(Page 13873 follows)

Now, that page 52 is entitled "Statement of class rates between points in Canada as compared with class rates between points in the United States for comparable distances." Now would you make whatever comment you would like to make to the Commission on these two pages, Mr. Jefferson, please?

A. Well, I would like to refer to a few of the examples shown on pages 52 and 53 of the appendix. The first comparison I would like to mention is that of the rates from Winnipeg to Regina, for a distance of 357 miles, with the rates from Grand Forks, North Dakota, to Mankato, Minnesota, a distance of 383 miles.

MR FRAWLEY: I note that the table is dated the 1st of October.

MR CARSON: I should explain that, Mr. Frawley.

Q. I think I am right in this, Mr. Jefferson, that these rate tables, because they were completed and had to get into our submission, do not include the effect of the 8% increase, which did not become effective until---

A. The 11th of October.

Q. The 11th of October, 1949. I intended to mention that, Mr. Frawley.

MR FRAWLEY: All the American increases are in the American rates, I take it.

THE WITNESS: All the increases in the American rates are in the tables, but the 8% interim increase in the Canadian rates is not included, because we had to get our submissions out by the 12th of October, and we did not know when these statements were prepared what the interim increase was going to be.

MR CARSON: Q. I think, speaking generally, one can find out what the rate would be by just applying 8%?

A. The 8% table.

Q. The 8% table?

A. Yes, sir.

Q. All right, Mr. Jefferson.

A. It will be seen from the first two lines of the exhibit that the rates from Winnipeg to Regina are in every case lower than from Grand Forks to Mankato. On first class traffic the rate from Winnipeg to Regina is 152, and from Grand Forks to Mankato 216, while on fifth class traffic, which is generally carload traffic, is classified fifth class, the rate from Winnipeg to Regina is 68, and from Grand Forks to Mankato 80. Now, from Winnipeg to Calgary, for a distance of 823 miles, compared with Fargo, North Dakota, to Sidney, Nebraska, for 831 miles, you find the same situation, that the rate---

Q. That is a substantial difference?

A. The rates from Winnipeg to Calgary are lower than Fargo to Sidney.

Q. Yes?

A. Another example is Fort William to Winnipeg, 420 miles, with St. Paul, Minnesota, to Pierre, South Dakota, 408; Duluth, Minnesota, to Bismarck, North Dakota, 446 miles. Now, comparisons used there show that the fifth class rate, Fort William to Winnipeg, 65¢, St. Paul to Pierre, 89¢, Duluth to Bismarck, 93¢.

Q. And even if you applied the 8% increase to the 65¢ you would get another 5 and a fraction cents?

A. It would be 70¢, yes, sir. Now, Fort William to Calgary, compared with St. Paul, Minnesota, to Dixon, Montana.

Q. You are taking longer distances now to illustrate?

A. Yes, sir. I should have mentioned the distance there. Fort William to Calgary, for a distance of 1242 miles, with St. Paul, Minnesota, to Dixon, Montana, 1282 miles, Duluth, Minnesota, to Bonnar, Montana, 1233 miles.

And you will find in every instance the rates from Fort William to Calgary are lower than the United States rates.

Q. Is there anything on the next page that you would like to refer to?

A. On the next page I wanted to mention two examples. Montreal to Regina, 1711 miles, with New York to Bismarck, North Dakota, 1715 miles, and Boston, Massachusetts, to Pierre, South Dakota, 1709 miles. Now, in that comparison you find the rates from Montreal to Regina are in every instance lower than the United States comparisons, but I might say that with the interim 8% increase the fifth class rate from Montreal to Regina would become a little higher than the United States comparisons. It is shown there as 188; with the 8% increase it would be 203.

Q. And would I be right, in the hasty survey I have made of these figures, in assuming that that is a rare exception?

A. That is, yes, sir. One more I would like to mention: Montreal to Calgary, for a distance of 2221 miles, with New York to Havre, Montana, 2194 miles, and Boston, Massachusetts, to Billings, Montana, 2204 miles. In every case the Montreal to Calgary rates are lower than the United States comparisons, and in that instance the fifth class rate from Montreal to Calgary with the 8% interim increase would still be much lower than the United States rates shown.

Q. Mr. Frawley has asked me something, Mr. Jefferson; I do not know whether you can help me on it. If you look back on page 52, he points to the illustration to which you had referred, the second one from the bottom, Fort William to Calgary, as compared with St. Paul to Dixon.

A. Yes, sir.

Q. And Duluth to Bonnar; and he points to the fifth class rate between St. Paul and Dixon, a distance of 1282 miles.

A. Yes, sir.

Q. The fifth class rate is 257, and he points out that the distance from Duluth to Bonnar is 1233, but the rate is 270, and he was just curious to know -- and I am too -- as to why the rate for the slightly shorter distance in the United States fifth class would be less?

MR FRAWLEY: It runs through all the classes, I see.

THE WITNESS: But it will be noted from this statement that the rates from Duluth to Bonnar for 1233 miles are in every instance higher than from St. Paul to Dixon for 1282 miles. Now, I cannot answer the question why. It must be that the rates between those particular points are made in a different manner. They have different zones in western trunk line territory, and it depends on the mileage in each zone as to how the rates are constructed. Now, it may be that there was a greater distance in the higher zone for the shorter distance than in the longer distance; I do not know.

MR CARSON: Q. But, at any rate, these are the rates that are in effect?

A. Yes, sir.

Q. And you have given the tariff references where they can be found?

A. That is right.

Q. Then may I next invite attention to a paragraph on page 48, one sentence at the top of the page, where the submission says:

"A comparison of many freight rates in Canada which move large volumes of traffic, with freight rates in the United States on similar movements, will demon-

strate the lower level of rates applicable to Canadian shippers."

And reference is made to the Appendix at pages 54 and 55. Perhaps if we turn those up, Mr. Jefferson, you may have some comments to make on those rates, which I take it are commodity rates, are they?

A. Yes, sir, they are all commodity rates.

Q. All commodity rates?

A. All the rates in this statement are commodity rates.

Q. That is, in the statement at 54?

A. 54 and 55.

Q. And 55, yes. And again, this table was made up before you could take into account the 8% increase; is that right?

A. Well, I am not positive that every one of them is a commodity rate, because it may in some instance be a commodity rate compared with a class rate, but I think in the majority of instances they are commodity rates.

Q. But again, this statement was made up before the 8% increase became known or effective?

A. That is right, yes, sir. Now, the first comparison that I would like to mention is the rates on automobiles.

Q. Passenger automobiles?

A. Passenger automobiles.

Q. Yes?

A. From Detroit to Albany, New York, for 522 miles, the rate is \$2.01. From Windsor to Montreal---

Q. We get that over in the second group?

A. The second column. One column is headed United States and the other Canada. From Windsor to Montreal, 559 miles, the rate is \$1.18. The distance from Windsor to Montreal is slightly greater than Detroit to Albany, but the

rate is lower. The second line, Detroit, Michigan, to Billings, Montana, 1498 miles, the rate is \$5.28, while from Windsor, Ontario, to Winnipeg, for 1415 miles, the rate is \$3.23. The next line, Detroit, Michigan, to Butte, Montana, 1724 miles, \$6.01, with Windsor to Regina, 1771 miles, \$4.33.

Q. Then I notice, Mr. Jefferson, that in the case of each of these movements -- that is, United States and Canada, it is a minimum carload weight of 10,000 pounds?

A. Yes, sir.

Q. Yes?

A. Now, the next example I would like to mention is agricultural implements. Chicago to Billings, Montana, 1231 miles, \$2.16; Toronto to Winnipeg, 1208 miles, \$1.00.

Q. Toronto to Winnipeg is less than half?

A. Less than half the rate from Chicago to Billings, yes, sir. Now, Chicago to Butte, Montana, 1457 miles, \$2.81, with Toronto to Regina, 1564 miles, a little over 100 miles further, \$1.55.

COMMISSIONER ANGUS: Q. Is that because the 21% increase was suspended, or was it suspended on agricultural implements?

MR CARSON: Mr. Spence, I think, knows more about than than any of us.

MR EVANS: I perhaps could tell you about that a little bit. What happened was that the rate on agricultural implements was originally on the sixth class basis. In 1920 or thereabouts the rate was reduced by the railways at the request of the Government to a basis which would enable the eastern producers of agricultural implements to compete with the Chicago producers in western Canada. The recent case involved an attempt by the railways independently of the 21% increase to restore

the rate on agricultural implements to the original sixth class basis, and it was that restoration to the sixth class that was suspended by the Board and about which the argument took place recently.

MR CARSON: Q. Then, Mr. Jefferson, what other examples do you wish to draw attention to?

A. Well, I would like to mention the rates on potatoes from Houlton, Maine, to Buffalo, New York, 798 miles, 91¢; Woodstock, New Brunswick, to Toronto, 777 miles, 46¢. Presque Isle, Maine, to Albany, New York, 580 miles, 75¢, and Woodstock, New Brunswick, to Brockville, Ontario, 594 miles, 38¢.

(Page 13881 follows)

Q. Mr. Jefferson, am I right in my assumption that in the case of potatoes moving from Woodstock, New Brunswick, to Toronto, at 46¢, that reflects the advantage of the Maritime Freight Rates Act?

A. Yes sir, Now I only mention one other example on the next page, page 55.

Q. Were you through with everything on 54?

A. I think so, yes sir.

Q. Did you want to say anything about boots and shoes? I had boots and shoes marked in my copy. It may be that I am interested in buying a few pair.

A. The rates on lumber on the next page from Seattle, Washington, to Grand Forks, North Dakota, 1499 miles 86¢, Vancouver to Winnipeg, 1465 miles, 83¢; Seattle, Washington, to Buffalo, New York 2655 miles \$1.18, Vancouver to Toronto, 2695 miles, \$1.07; Seattle, Washington, to New York, 3047 miles, \$1.18, Vancouver to Montreal, 2878 miles, \$1.09; Seattle to Boston, Massachusetts, 3130 miles, \$1.18, Vancouver to Quebec, 2905 miles, \$1.09. I might say that applying the 8% interim increase all of the Vancouver rates show they would be the same or lower than the Seattle rates with the exception of the Vancouver to Winnipeg comparison which would be a little higher.

MR. FRAWLEY: I do not know how far you are going into it, and there will be an opportunity of cross-examining, but I thought Mr. Jefferson might call attention to the very great difference in newsprint rate from International Falls to Wichita in Kansas & Kenora to Calgary.

MR. CARSON: Mr. Frawley would like you to call attention, Mr. Jefferson, to the newsprint item. Do you see paper and newsprint?

A. Yes.

Q. And, of course, he sees "Calgary" in there, and that makes him reminiscent about many things?

A. Yes sir.

Q. Have you anything to say about that particular commodity?

A. In the case of newsprint paper on the previous page, page 54, from Millinocket Maine, to New York, 515 miles, 57¢, Three Rivers, Quebec, to London, Ontario, 539 miles, 50¢. The next line, the rate from International Falls, Minnesota, to Wichita, Kansas, 933 miles, is 85¢, and Kenora, Ontario, to Calgary, 949 miles \$1.17.

Q. Have you anything to say about that, because I can see now why Mr. Frawley asked about it?

A. Well, it is true that the rate from Kenora to Calgary is somewhat higher than from International Falls to Wichita, Kansas. That is due to the necessity of making rates from Canada to the United States on newsprint paper that will enable the Canadian producer to reach the United States markets in competition with other sources of supply.

COMMISSIONER INNIS: How much traffic would move in that direction? Would the newsprint come from the Pacific coast to the east?

A. To Wichita, Kansas? The mills at Fort William, Port Arthur and Kenora, International Falls, and Pine Falls, supply newsprint into the Kansas market.

Q. They would compete with newsprint from the Pacific coast mills?

A. They compete with mills in the Pacific coast, yes, sir.

Q. In Calgary?

A. In Calgary, I do not think there is, as a matter

of fact, any movement from Kenora to Calgary. I think the Calgary and Edmonton papers are very largely obtaining their supplies of newsprint from Powell River.

MR. FRAWLEY: Isn't there a movement from Pine Falls? I think the Edmonton Journal Editor told us that.

A. Pine Falls is in Manitoba, a little north-east of Winnipeg - yes.

MR. COVERT: Would you ask him, Mr. Carson, about the rates on butter from Elbow Lake?

MR. CARSON: Mr. Covert would like to know about butter, the third item from the bottom on page 54?

A. Yes sir.

Q. Have you any comment to make about that? Perhaps you can point out what the comparison is?

A. In the case of butter, the comparison shown is one from Boston Massachusetts to Springfield, Massachusetts 98 miles at 29¢ and from Montreal to Ottawa 117 miles at 29¢.

Q. It is the next one Mr. Covert would like to know about - Elbow Lake, Minn.?

A. Elbow Lake to Superior, Wisconsin, 240 miles, 65¢, from Alix, Alberta to Drumheller, Alberta, 237 miles at 79¢. The only comment I can make on that is that we did not try and pick and choose every instance that would be in our favour. Some of them are not in our favour and the rates on butter in the Prairie Provinces are third class distributing basis, and all shipping and receiving points are treated alike unless there is other competition.

MR. EVANS: There is an agreed charge on butter, is there not?

A. Not for this movement, no sir.

Q. But there is in the west?

A. Yes, but not in the case of the movements shown in the Exhibit.

MR. CARSON: Well, that is all I had to ask you about those pages unless there is anything more you wanted to comment on, Mr. Jefferson.

A. No sir.

THE CHAIRMAN: We will take a few minutes off.

. . . RECESS

MR. CARSON: Mr. Jefferson, just before I go to the next subject, Mr. Frawley has asked me to inquire of you about canned goods on page 54 of the Appendix, the last statement to which we were referring and the last item on the page. If you would just refer to those rates in the first instance and the ^{matter} that Mr. Frawley has in mind is whether canned goods actually move at those rates?

A. From Rochester New York, to Aberdeen, South Dakota?

Q. Yes.

A. And from Springfield, Mass., to Albany, New York?

Q. Yes.

A. Those are the lowest rates. The rates shown in this statement are the lowest rates on canned goods from and to the points shown. Now, there would be a movement of canned goods from Rochester, New York, to Aberdeen, South Dakota, because there are canning plants at Rochester, New York.

Q. And they would move on those rates?

A. Yes.

Q. Now, what about the Canadian movement, Hamilton to Winnipeg?

A. We know that canned goods move from Hamilton to Winnipeg at \$1.38.

MR. FRAWLEY: There is no competitive rate between Rochester and Aberdeen?

A. No sir, and if there were that would have been the rate we would have used.

MR. CARSON: Does that meet your point, Mr. Frawley?

MR. FRAWLEY: Yes, thanks very much.

MR. CARSON: Now, Mr. Jefferson, I want to take you, if I may, to the subject of the Maritimes Freight Rates Act, and to introduce your evidence on that subject, I would like to read the outline submission 35 on page 48 of the Canadian Pacific Brief, Part I.

(Page 13888 follows)

At page 48 of Part 1, I read:

"Canadian Pacific is opposed to the extension to other parts of Canada of legislation in the pattern of the Maritime Freight Rates Act. Such legislation imposes rigidities upon the freight rates structure which, in the submission of the Canadian Pacific, can lead only to sectional strife and to litigation. Canadian Pacific does not propose the repeal of the Maritime Freight Rates Act but it does suggest that it would be unfortunate to adopt the principle of that Act as a solution to the so-called geographical disadvantages which are alleged to exist in certain parts of Canada."

Now I would like you to tell the Commission, in the first instance, to what traffic that Act applies?

A. The Maritime Freight Rates Act applies to traffic moving:

- (a) Within the preferred territory, that is, in the Province of Quebec, Diamond Junction, Levis, and East of the Maritime Provinces.

Q Yes. That is traffic moving within that preferred territory?

A Yes.

Q. What is next?

A.

- (b) All Westbound traffic from points in the area mentioned in (a) to points in Canada west of Diamond Junction and Levis.

Q. Yes.

A. And

- (c) From points in the preferred territory to ocean ports in the preferred territory for destination overseas.

Q. Yes. Now you have described the traffic to which that Act applies, and it is only to that traffic at the present time.

A That is right.

Q Now would you be good enough to tell the Commission to what traffic the Act does not apply, by way of contrast?

A. The Act does not apply;

(a) On import shipments from overseas to destinations in the preferred territory.

Q. Yes.

A.

(b) From points in Canada West of Diamond Junction and Levis to destinations in the preferred territory.

Q Yes.

A. And

(c) On shipments from the preferred territory to destinations in the United States, or in the reverse direction.

Q Yes. Now, in the submissions of the Maritime Provinces and the Transportation Commission of the Maritime Board of Trade there are, I believe, some suggestions with respect to the extension of the application of the Maritime Freight Rates Act. So would you explain to the Commission your understanding of what those suggestions are?

A. My understanding of the suggestions made is that there does not seem to be uniformity in the claims put forward in the various briefs presented by the Maritime Provinces and by the Maritime Board of Trade.

Q Would you give an example of what you mean?

A. At page 3298 of the transcript the Province of

Nova Scotia urges that there should be a reduction in the freight rates on goods, materials, and commodities, to be processed in Nova Scotia, or to be used in the manufacture of products there shipped into Nova Scotia from points outside the select territory.

Q Yes.

A. And on the other hand, the Province of New Brunswick at page 3927 of the transcript submitted that such reductions in the standard rates should be applicable on goods manufactured in Central Canada and shipped into the Province of New Brunswick, especially on goods which are tariff protected and where there is no competitive industry in the Maritime Provinces.

Q Then what have you to say about those two contentions?

A. It would appear that there is uniformity in these submissions to the extent that they would apply on some Eastbound commodities, but there may be differences between the two as to what commodities are to be given the benefit of the Maritime reductions.

Q. Yes.

A That is, Nova Scotia indicates that a reduction should apply on commodities moving to the Maritimes for processing, whereas New Brunswick seems to want the reduction on commodities manufactured in Central Canada, which are not produced in the Maritimes.

Q. What other requests have you found in these submissions?

A. It has been suggested by Nova Scotia at pages 3297 and 3298 of the transcript that preference should be extended to apply to the whole movement from the Maritime Provinces even as far West as Vancouver, and not merely to the mileage proportion East of Diamond Junction or Levis.

Q. Yes.

A. On the other hand, the Maritime Board of Trade expressed the view at page 3860 of the transcript that the Maritime preference on Westbound movements should be extended so as to apply to the entire rate only as far west as Toronto and other Ontario points.

Q. Yes. Is there anything else?

A. There is a suggestion at page 3297 of the transcript that the Maritime preference of 20% should be increased.

Q. Yes. Now would you give the Commission your comments on the suggestion of applying the Maritime preference to certain Eastbound commodities?

A. In my opinion the principal objection to all of the proposals for extension of the Maritime Freight Rates Act is that it would be unfair to extend the advantages of the Maritime Freight Rates Act without considering similar concessions to other parts of Canada.

Q. Yes.

A. In the result, therefore, the principal objection is to the advantage of the subsidies in favour of the Maritimes as against other parts of Canada.

Q. Yes.

A. However, with regard specifically to the application to Eastbound traffic, it would, in my opinion, never be possible to settle the commodities to which the preference should be extended.

Q. What have you in mind there? Can you give an illustration of that?

A. For example while there might be a stove manufacturing industry in the Maritimes today, drawing its raw materials from other parts of Canada, to which a preference would apply, next year some other industry might

be set up which does not now exist in the Maritimes, and a new commodity, or commodities, would have to be added to the preferred list.

Q. Yes.

A. In this way there would be no finality from year to year as to what commodities were to be given the Maritime preference.

Q. Yes. Have you any other views about it?

A. Moreover, the application of the preference to commodities for processing in the Maritimes would discriminate heavily against the producers of goods manufactured from the same commodities in other parts of Canada, which now are shipping to the Maritime provinces, unless a similar preference were given to those goods; and in that event the purposes for which the preference is extended as to Eastbound traffic would be defeated, because outside producers would then be in a preferred position in the Maritime market.

Q. What about the application of the Act to manufactured products which are not now produced in the Maritimes?

A. With regard to the application to manufactured products which are not now produced in the Maritimes, the extension of the Maritime preference to those goods would, in my opinion, be giving an additional subsidy to the consumers of those goods in the Maritimes.

Q. Yes.

A. Canadian Pacific is of the opinion that the extension of subsidies of this kind is not either desirable or necessary.

Q. What is your view about the extension of the Maritime preference on Westbound traffic to take in the entire through rate, rather than to apply the preference

to the portion which is just east of Diamond Junction and Levis?

A. That would, in my opinion, be objectionable both from the standpoint of increasing a subsidy, and from the standpoint that it would provide an unfair advantage in favour of the Maritimes as against other parts of Canada. Moreover, it would give rise to further claims from other parts of Canada for similar preferences.

Q. What have you to say as to the suggestion to increase the amount of the Maritime preference, that is, above 20%?

A. I think it is open to the same objection I have mentioned in regard to the other proposals.

Q. Yes.

A. Further, the recommendation of the Duncan Commission, at page 22 --

Q That is page 22 of the Duncan Report?

A. That is right.

Q. Yes.

A. Regarding freight rates was that the 20% reduction should be awarded so that the increases which had taken place in such rates in the Maritimes, between 1912 and the time of the Report, in September 1926, in excess of the increases in other parts of Canada would be eliminated.

Q. Yes.

A. The rates in the Maritimes today are still, at least, 20% below the rates in Central Canada on a mile for mile basis, with the exception of competitive rates.

Q Now what have you to say as to the claim of the Maritimes that the rates given to them by this Maritime Freight Rates Act have been whittled away by the introduction of competitive rates in other parts of Canada?

A. The Maritime Freight Rates Act protects the Maritime Provinces by Section 8 of the Act which provides that no tariff shall be allowed by the Board of Transport Commissioners, which destroys or prejudicially affects the preference given to the Maritimes by the Act.

Q Yes.

A Thus it is a matter of the Maritimes being able to show that their preference under the Act is being prejudiced by competitive rates. In my opinion, unless they can show that they are being prejudiced by such rates, they ought not to have any benefit from them.

Q Why do you say that, Mr. Jefferson?

A I say this because where the rate is no lower than is necessary to meet competition in other parts of Canada, the shippers in such parts of Canada can avail themselves of the services of competitive forms of transportation which give rise to the competitive rate; and whether or not the railways meet that competition will have no effect whatever on the Maritime preference under the Act.

(Page 13898 follows)

Q. Now, in your opinion would it appear practical to adopt the suggestion made by the Maritimes to apply the provisions of this statute to international traffic?

A. No, sir.

Q. Why?

A. To apply the provisions of the Act to international traffic, that is to traffic from the preferred territory to destinations in the United States or the reverse direction, would present obstacles which could not satisfactorily be overcome.

Q. Why do you say that?

A. My reason for making this statement is that our Board of Transport Commissioners understands the relation of rates published in conformity with the provisions of the Act to other rates. The Interstate Commerce Commission and the railroads in the United States would not understand the reason for difference in treatment in rates to and from points in the preferred territory, with rates from and to points outside of the preferred territory. The application of the Act to international traffic would present a situation which, in my opinion, neither the Interstate Commerce Commission nor the railroads in the United States could accept.

Q. Then I want to read one paragraph from page 50 of Part I of the Canadian Pacific submission.

THE CHAIRMAN: Is that on another subject?

MR. CARSON: It is still on the Maritime Freight Rates Act, but it introduces a little different line of questioning on this subject.

THE CHAIRMAN: Before you leave the Maritime Freight Rates Act, I should like to ask you to tell me what you mean by the word "rigidities" in your outline

submission, paragraph 35. You complain of rigidities which you allege, amongst other things, lead to litigation. Perhaps you have cleared it up previously.

MR. EVANS: That is really a legal connotation, a legal argument.

THE CHAIRMAN: I thought perhaps you meant the restriction of section 8 of the Maritime Freight Rates Act.

MR. EVANS: I think what we had in mind there was the legal complications that you get into. For example, just offhand the first thing that strikes me is the argument put up by Mr. Burchill who appeared in the 21 per cent case for the Maritimes to the effect that section 2(c) of the Act, which provides that you may change rates to meet changing business conditions, can only --

THE CHAIRMAN: What section?

MR. EVANS: 3(2)(c). He said those changes would always have to be downward and that you could not raise them upward. The only way you can raise them upward was under 3(2)(b), which in turn depended on the change in cost of transportation in Canada, and business conditions having changed you could lower them under 3(2)(c), but you could not restore those rates when business conditions required an individual rate to be changed. It was rigidities of that kind from a legal standpoint that the brief really has in mind. Mr. Jefferson may have other ideas.

THE CHAIRMAN: All right.

MR. CARSON: Q. At page 50, Mr. Jefferson, I should like to read the second full paragraph on that page.

"If there be two areas, A and B, which trade

with each other, and if the goods which A ships to B receive a subsidy in respect of transportation, to the advantage of economic development in area A, then every argument will exist for there being similar treatment applied to the shipment of goods from area B to area A. In such circumstances all that would occur would be a subsidy from the taxpayers of the two areas, as well as all taxpayers of Canada, to the transportation of goods between the two areas -- creating the unfavourable effect of all general subsidies on transportation, in the direction of causing unnecessary use of this service, and thus imposing an unfortunate burden of wasted effort on the economy as a whole."

Can you give an example to the Commission of what that passage of the brief has in mind?

A. Let us take a consuming point such as Levis, Quebec, a point within the preferred territory, and on the western boundary of such territory. A shipper of boots and shoes at Fredericton, New Brunswick, shipping to Levis, Quebec, receives the benefit of the Act, while a shipper at Montreal or some other point outside of the preferred territory, would not. Should shippers outside of the preferred territory demand and receive similar treatment to that accorded to the shippers within the preferred territory, there would evolve that vicious circle with benefit to no one but expense to the taxpayers.

Q. You have read the statements in the Canadian Pacific submission respecting the so-called potato case?

A. Yes, sir.

Q. And the contention of the Maritime Provinces

that where competitive rates may be established, for example, in Ontario and Quebec, such rates should be extended to the shippers of similar products from points in the Maritime Provinces. Have you any views to express, and can you give the Commission some other example that illustrates what you have in mind?

A. I might mention that washing machines may be shipped to Toronto from either Amherst, Nova Scotia, or Fergus, Ontario. There are competitive rates from Fergus to Toronto while from Amherst to Toronto shipments move at class rates. Shipments may move from Fergus to Toronto by rail or truck. From Amherst to Toronto the movement would undoubtedly be by rail. In the movement of this traffic from Fergus to Toronto by truck at truck rates, or by rail at truck competitive rates, the shipper does not obtain from the railway something which could not be obtained from the trucker. Had the railways not met the competition in whole or in part, the position of the Maritime shippers would not have been changed. There would have been only one result, namely, the railways would have lost the business. In the circumstances no one can reasonably suggest that the shipper at Amherst should have his rates to Toronto reduced because of the necessity for truck competitive rates from Fergus, or that he has in any way been prejudicially affected by the competitive rates of the railways from Fergus which were not of their making.

Q. What would be your opinion as to what might happen if the competitive rate had to be extended to shipments from Amherst to Toronto?

A. In that case the railways might not be able to afford to meet the competition, and the result would

be that neither Amherst nor Fergus would have the a rail rate competitive with the trucks. In such a case Amherst would be in exactly the same position as before, and the railways would have lost the traffic.

Q. That is, the railways would have lost the traffic from Fergus to Toronto?

A. From Fergus.

Q. That would not meet Mr. Frawley's point that to justify a competitive rate net revenues must be improved?

A. That is right.

Q. In carrying out the requirements of the Maritime Freight Rates Act is there any expense involved on the part of the railway company?

A. Well, there is no greater expense in the actual printing and distribution of tariffs in the territory where the Maritime Freight Rates Act is applicable than occurs elsewhere.

THE CHAIRMAN: In this evidence we have just been hearing, is it complained by you that section 8 of the Act operates today so as to prevent you applying these competitive rates from Fergus to Toronto?

MR. EVANS: No, sir, the Supreme Court held otherwise.

THE CHAIRMAN: Pardon?

MR. EVANS: The Supreme Court held otherwise.

What the Supreme Court held in that case was that it was only
/on proof of prejudice that section 8 would be infringed so as to entitle the Maritimes to have this competitive rate disallowed by the Board. They have to show prejudice.

THE CHAIRMAN: The Board held in the case in question that there was no prejudice?

MR. EVANS: Yes. They had to prove prejudice. That was the Supreme Court.

THE CHAIRMAN: I was going to say that under section 8 it is left to the discretion of the Board. The Board may find they were prejudiced. It seems to me in the case being built up in this evidence of the rates between Fergus and Toronto, the company met the competition in order to retain a part of the traffic for the railways, and it has been shown there would not be any prejudice because the washing machines are going to move anyhow from Fergus to Toronto at a lower rate, and if they were not moved by rail they would move by truck.

MR. EVANS: Yes.

THE CHAIRMAN: That is the kind of case that section 8 allows the Board to deal with.

MR. EVANS: Yes, and unless they can prove prejudice --

THE CHAIRMAN: And they upheld the competitive rate.

MR. EVANS: What the Maritimes are asking is something quite different. They ask that, because of the difficulty of showing prejudice, they should now be excused from showing prejudice.

THE CHAIRMAN: What is that case you have referred to?

MR. O'DONNELL: It is 46 Canadian Railway Cases, page 161.

MR. CARSON: That is the Supreme Court case.

Q. I was asking you about the expense involved by the railway company in carrying out the requirements of the Maritime Freight Rates Act. Perhaps you would refer to that again.

A. I mentioned there was no greater expense in the

actual printing and distribution of tariffs in the territory where the Maritime Freight Rates Act is applicable than occurs elsewhere. There is, however, considerable extra work involved in determining the proper rates applicable under the Act, obtaining the necessary authority from the Board of Transport Commissioners to apply for reimbursement, and in the accounting and collection of the reimbursement. While it is not possible to determine with any degree of accuracy what the additional expense amounts to per annum, nevertheless it does cause extra work and expense in the traffic and accounting departments which has to be borne by the freight shippers of this country.

Q. Then, what would be the effect of extending the principle of the Maritime Freight Rates Act to other rates?

A. It would add additional work and expense to earn the same amount of revenue.

Q. Now then, the next subject to which I want to turn, Mr. Jefferson, is the cost of service principle. To introduce the questions I should like to put to you, I propose to read from the outline submission, paragraphs 36 to 40, at page 56 of the Canadian Pacific submission, Part I. Paragraph 36 reads as follows:

(Page 13908 follows)

"36. Canadian Pacific submits that the principles of rate-making at present laid down in the Railway Act and in the decisions of the Board of Transport Commissioners are sound and in the public interest and do not require any substantial amendment.

"37. The regulation of rates under the Railway Act is intended to provide flexibility and freedom in the ability of railway companies to make rates subject only to proper protection against abuses. When the system outlined in the present Railway Act was first established, railways, subject only to competition from water carriers, had a substantial monopoly of transportation. They provided a service which was so essential to the development of resources and industry in Canada as to make it necessary that the monopoly they held should not be exercised in such a way as to prejudicially affect the different groups of shippers and the different geographical areas in which those shippers carried on business. It is hardly open to question that the railways have now lost the monopolistic position which they then occupied.

"38. In the submission of Canadian Pacific any change in the system of rate-making now set forth in the Railway Act should be in the direction of affording greater flexibility and freedom to the railways than during the period when they enjoyed substantial monopoly.

"39. The principles of rate-making laid down in the Railway Act are relatively simple. It is provided that rates shall be just and reasonable. This means that they shall be just and reasonable to the railways as well as to the shipping public.

"In order for rates to be just and reasonable to

the railways the revenue derived from the mass of rates for the movement of all the traffic must be sufficient to pay operating expenses and taxes and to provide a reasonable return on the capital invested in the railway enterprise.

"In order for rates to be just and reasonable to the shipper the Railway Act provides the following protection:-

"(a) It provides that rates shall not exceed the so-called maximum or standard tariffs which all railways are required to file and have approved by the Board of Transport Commissioners. These rates may not be increased without approval of the Board. The railways, however, are free so long as they do not exceed these maxima to make rates lower than the maxima, designed to develop industry, to move the maximum amount of traffic and to meet competition.

"(b) The Railway Act, in particular by Sections 314 to 321 inclusive, provides adequate machinery for ensuring that all tolls shall always, under substantially similar circumstances and conditions, in respect of all traffic of the same description, and carried in or upon the like kind of cars or conveyances, passing over the same line or route, be charged equally to all persons and at the same rate, whether by weight, mileage or otherwise. These sections together with the decisions of the Board over a period of many years, have provided and are continuing to provide the greatest possible protection against abuses and in ensuring that rates shall be just and reasonable to the shipper.

"40. It is obvious, in the submission of the Canadian Pacific, that the cost of service principle

cannot be applied in the making of individual rates or scales of rates."

Q. Now, I take it, Mr. Jefferson, that you support what is said in those submissions that I have read?

A. Yes, sir.

COMMISSIONER INNIS: Mr. Carson, I think a question was raised by Mr. Covert some time ago as to whether the same rates would apply in both directions on the same line or route.

MR EVANS: Mr. Jefferson could answer that, I think.

MR CARSON: Q. Dr. Innis has raised the question as to whether the same rates would apply in the same directions---

COMMISSIONER INNIS: In different directions.

MR CARSON: Q. In different directions, yes, on the same line or route?

A. In the reverse direction?

MR EVANS: They are not always the same.

THE WITNESS: Not always, no. Generally speaking they are, but not always.

COMMISSIONER INNIS: There are no decisions on that question?

MR EVANS: I think as a matter of law they can be, if the circumstances and conditions are similar.

THE CHAIRMAN: The section is subject to those terms.

MR EVANS: Yes.

THE CHAIRMAN: Can Mr. Jefferson throw any light on the question I have been propounding from time to time, as to what is meant by "the same line or route"?

THE WITNESS: What section is that?

THE CHAIRMAN: 314.

MR EVANS: You mean interpretation by the Board?

THE CHAIRMAN: Well, it has been?

MR EVANS: I have no doubt it has.

MR FRAWLEY: I have several cases gathered, sir, that I had intended to bring at an appropriate time to your attention.

MR CARSON: Q. Mr. Jefferson, could you help the Chairman about any views you have about this expression, "over the same line or route" -- that is, from your experience? It is in this outline submission.

THE CHAIRMAN: It is in section 314.

MR CARSON: It comes from section 314, of course.

THE WITNESS: Yes.

MR CARSON: "Over the same line or route". Perhaps you want to take time to read that to yourself, so that you get the sense of it.

THE CHAIRMAN: Perhaps Mr. Jefferson could tell us this afternoon.

MR CARSON: Well, we will defer that until this afternoon, Mr. Jefferson; we won't bother you about it now.

THE WITNESS: All right, sir.

MR CARSON: Q. Now, following what I have read, Mr. Jefferson, pages 58 to 63 of Part I of our submission contain some elaboration of those submissions with respect to the cost of service principle?

A. More particularly to item 40.

Q. Yes; but before I come to that, my attention was just called to an error that should be corrected on page 52.

MR EVANS: Yes, I have had my attention drawn to the fact that on page 52 a reference to a decision of the Supreme Court which in the brief is stated to be 47 Canadian Railway Cases should be 46. I thought perhaps

that should be corrected before we passed too far on.

MR CARSON: It is about nine lines from the top of the page.

THE CHAIRMAN: That is the decision on section 8?

MR CARSON: Yes, my lord.

THE CHAIRMAN: I have it correctly in the reference you gave me earlier -- 46 C.R.C.

MR CARSON: Q. Then, Mr. Jefferson, coming back in our thinking to the subject of cost of service principle and the submissions that we have referred to -- I have already read those outline submissions -- have you any comments to make on the subject of this cost of service principle?

A. Yes, sir. I would like, however, if I may, to endeavour to translate into practical application that which has been expressed in more academic language.

Q. All right. Perhaps you would tell us first if you consider the making of freight rates on a cost of service principle is sound?

A. Well, it is my view that the cost of service principle is unsound; it is impracticable; it would deter the progress of this country as well as industry and the railways; it would be a backward step.

Q. Can you give the Commission an example that would illustrate what you have in mind?

A. The foundation of the railways' freight classification and commodity tariffs are the same, namely, they are founded on the value of service rather than the cost of service principle. Were lower value commodities charged their full share of the over-all cost of transportation, the rates on these commodities would not be radically different from the rates on higher value commodities.

Q. Yes?

A. In such circumstances I am of the opinion that such low value commodities would not move in the same volume and for the same distance as they do now. This would create a very serious disturbance in established industry in this country. Were higher or lower rates charged on the higher value commodities it might not affect the movement of such commodities to any appreciable extent. Further, it would seem to me that the adoption of the cost of service principle would, for example, so affect freight rates that lumber and shingles or apples would not continue to move in anything like the same volume from British Columbia to Winnipeg or Toronto or Montreal. This would not be good for Canada, British Columbia or the railways. Many other similar examples could be given.

Q. Can you inform the Commission in a general way how you make rates -- let us say, for example, what are known as special commodity rates?

A. Well, no one or simple answer could be given. I might, however, give one or two illustrations. The first illustration: Let us take a new industry such as a pulp and paper mill as may develop at a point at or near Edmonton. This industry will, in addition to pulpwood, bring in many other commodities to produce pulp and newsprint paper. The industry will ship the pulp and paper products to markets in Canada and the United States. The first thing to determine is what the raw materials will consist of and from what sources they would be obtained. Next, to what points will the manufactured products, pulp and paper, be shipped? The next thing to determine is what rates are charged other similar industries on the same commodities for the same or similar movements. Care requires to be exercised in not entering preferential rates for the new industry which might be prejudicial to another

industry. With information before us as to the necessity for the rates requested or the rates which we are prepared to make, we are then in a position to test the revenues which might be obtained from such traffic with the railway's statistical yardstick available.

(Page 13915 follows)

As a second illustration, a new industry develops producing a commodity not heretofore produced in Canada-

MR. FRAWLEY: That is as far as Mr. Jefferson is going with that new pulp rate to Edmonton?

MR. CARSON: Yes.

THE CHAIRMAN: I did not hear you, Mr. Frawley.

MR. FRAWLEY: I just wondered if that was as far as Mr. Jefferson was going. He has now left the matter of the new pulp wood plant at Edmonton.

MR. CARSON: He is explaining what considerations he would take into account at arriving at a rate.

A. You would not want me to give you the rates we are quoting.

The second illustration, a new industry develops producing a commodity not heretofore produced in Canada. The railways are approached by the industry to determine what freight rates may be obtained to dispose of the products in the available markets. During the early negotiation it is necessary for the railways to develop the characteristics of the commodity to be shipped, the manner in which same will be shipped, its value, if it is reasonably heavy or light and bulky, average loading per car which is required to be considered from both a commercial and physical point of view location of available markets, rates from present sources of supply, selling prices of commodities at point of shipment or destination or both. With this information it is possible to negotiate or determine what rates may be necessary in the successful marketing of the commodity to be produced in the interests of the industry, the railways and the country. This procedure might be described as a practical working of the value of service principle. The rate will not, with rare exceptions be all the traffic will bear as is so often stated,

but could be properly said to be what the traffic will bear in the interests of the industry, the railways, and Canada.

Q. You mentioned a little while ago that you were in a position to make statistical tests to determine if the revenues which you had obtained from certain traffic movements could be considered satisfactory. Now could you explain to the Commission the nature of those tests, Mr. Jefferson?

A. Well, here again the tests should not be too rigidly applied. In making such a test many factors are considered, among them being, first, revenue per ton per mile, second, revenue per car mile, thirdly, length of haul, fourthly, average loading per car, fifthly, revenue per car, sixthly, the direction of the flow of traffic, seventh, the density of the traffic on the line over which the traffic has to move. In making special commodity rates, all these factors are required to be considered in comparison with the averages for the preceding year. This, of course, requires to be done with due regard to the actual distances of the movements involved with the regional or system averages for all traffic. Naturally, if it is considered that industry needs some assistance in the marketing of its products, and if the tests indicate that the revenue per ton mile and per car mile would be above average, it will prove to be in the interests of both the industry and the railways to establish the rate.

Q. What do you do in a case where your tests show that the proposed rate is below the average per ton mile and per car mile?

A. In such a case, a closer examination must be made by the railways to determine whether the rate proposed is likely to be compensatory.

Q. And what would you do if the proposed rate is only slightly below the average in yield per ton mile and per car mile?

A. If it is only slightly below, I give prime consideration to the length of haul, as, of course, the greater the length of haul the lower the ton mile revenue it would prove to be compensatory.

Q. What do you do if the proposed rate is materially below the average yield per ton mile and per car mile?

A. Well, there are cases where we find a preponderance of empty car movement in certain directions, and in such cases it would pay the railway to take the traffic at the lower rate since the cost of carrying it must necessarily in the circumstances be very low.

Q. Are any other tests made in addition to those you have just been describing?

A. Yes sir. Should there be need to accord an industry for the movement of a substantial volume of traffic, a special rate below that which might customarily be made from Point A to Point B and the revenues which might be obtained would not stand the tests which have been described, a special study would be made with the assistance of the Department of Research to determine the amount of profit, if any, in the proposed rate. This would only be done in instances where it would be considered some assistance is required to develop the industry or to keep some existing industry alive, and in granting some relief a situation would not be created which would be discriminatory or prejudicial to some other industry.

Q. Now, I think that completes what I wanted to ask you about the cost of service principle, and the next subject, my lord, is that of competitive rates which commences

at page 70 of Part I of the Canadian Pacific Brief.

THE CHAIRMAN: Well, I think we had better adjourn now.

---The Commission adjourned at 12.55 p.m. until 2.45 p.m.

Thursday, December 15, 1949.

AFTERNOON SESSION

MR. O'DONNELL: May it please the Commission, just before the adjournment Dr. Innis inquired concerning rates on the same line in different directions, and I indicated that I thought that there were cases to the effect that the rates need not be the same.

During the luncheon recess I have found the case of Dominion Sugar Company Limited, which was an application for the adjustment of rates on sugar beets in carloads from Chatham and Wallaceburg, Ontario, so as to remove such discrimination in favour of Raymond, Alberta. The case is to be found reported in Volume 17, J.O.R. & R. page 561.

At page 564 there is this short extract:

"Even with regard to rates on the same line of railway, a difference in rates on different parts of the line does not necessarily constitute unjust discrimination and to carry the illustration further, there may be, without unjust discrimination, over the same portion of the same line, a difference in rates where the movements are in the opposite direction."

That ruling was given in 1928. Then in 1931 the Board gave a similar ruling in the case of Consumers Glass Company Limited v. Canadian Freight Association, which is to be found reported in Volume 38 Canadian Railway Cases at page 77.

THE CHAIRMAN: What year was that?

MR. O'DONNELL: 1931, my lord. The earlier one was in 1928.

At page 102 of 38 C.R.C. I read:

"Rate comparisons based on distance alone, or comparison of rates constructed under different circumstances, or in different territories, have little probative value in determining the existence of discrimination which is unjust."

And at page 104, this other case I referred to the Commission is again cited.

COMMISSIONER INNIS: Thank you very much, Mr. O'Donnell.

MR. EVANS: Following up what my friend has given to the Commission, your lordship asked me this morning whether the Board had made any decision on the interpretation to be given to the words "on the same line or route".

Before I pass to that, I would like to illustrate the point. Suppose I join my wrists with my left hand representing a line of railway and my right also representing a line of railway.

If the two lines of railway which I illustrate are owned by the same company, then there would be discrimination if the only difference in circumstances and conditions was that the traffic ^{was} carried over the different, actual, physical lines of of railway.

But if the one or other of the two lines which I illustrate were owned by a different company, then that would be an answer to a claim of unjust discrimination.

THE CHAIRMAN: Yes.

MR. EVANS: Now then, there are some little variations in that which I want to draw attention to. But while the Board has not, so far as I have been able during the noon hour to find, used words which indicate clearly why that is their interpretation of those words, I suggest that the Commission might find that in the case of Canada West Coal Company, a case which is reported in Volume 27 Canadian Railway Cases at page 113 --

THE CHAIRMAN: What year is that?

MR. EVANS: That was in 1921. It was a case where they held -- and I shall read from the headnote which is very short:

"It is not unjust discrimination when two railway companies, operating to the same destination ---"

That would be the case I illustrated, where my wrists joined at the destination, with two lines coming into that destination and which are operated by two different companies, if those two charge different tolls for the carriage of commodities. In this case it was coal.

" --- even although the company having the shorter haul charges the higher toll."

Now then, that is the rule under the first subsection of Section 314.

That subsection, as the Commission will recall, is the subsection which provides for the equality of tolls save under the conditions which are mentioned there, in which unjust discrimination can be proven.

Now, with regard to subsection 5, we have a somewhat broader scope to this question. Under subsection 5 -- which is Mr. Frawley's favourite subsection -- it deals with long and short haul discrimination.

Now, under that subsection there can be no question but that the same line or route means the same line or route of the carrier involved.

But the Board has gone a little further and has held in the case of Canadian Cannery v. Pierre Marquette reported in 35 Canadian Railway Cases, at page 166; and this case is also referred to in Mr. Coyne's book at page 412, and this is Mr. Coyne's note:

"The long and short haul provision of section 329 subsection 3 applies to movement over one line of

railway, movements over a route including more than one railway are governed by Section 314 subsection 5."

Now, that perhaps would point up the distinction between the word "line" and the word "route". So that under Section 314 subsection 5 that case would seem to have decided that if one or more railways are engaged in through movement, then the long and short haul provision would apply to the through rate; but where it involved a route on one or more railways, that variation of the matter is worth pointing out.

(THE CHAIRMAN: I am glad you raised it again. I think it was raised before and I think Mr. Matheson wanted the Intercolonial Railway to be made a separate railway precisely to meet this situation which you showed us with your two hands, that if it is the same company which runs the two lines, then they cannot discriminate unjustly; whereas, if there are two different companies, then one company can do what it likes, regardless of what the other company does.

I must say though, that my query about those words "Passing over the same line or route" rather had to do with the wider question: How much of your line was meant by them

The other day I said: Does that mean your line all the way to Vancouver, or does it mean a shorter distance?

MR. EVANS: In that context I think your lordship at that time -- I recall quite clearly -- was referring to -- or at least, I thought you had in mind this question of the discrimination to intermediate points, and that is one of the reasons why I drew to your lordship's attention the fact that they consider first from an intermediate point standpoint this long and short haul rule.

The line of the company between the point of origin and the point of ultimate destination passing through the intermediate point would also have extended to this: That if from A to B the traffic were to move over the line, let us say, of the Canadian National, and from B to C, the ultimate destination, over the line, let us say, of the Canadian Pacific, and if E were a point intermediate, the long and short haul rule would apply to that through route.

THE CHAIRMAN: I understand all that. But what I had in mind was this, with no complication of another line, just the one railway-- here it is going east and west; when does it cease to be the same line or route?

MR. EVANS: If it is owned by the company, the same company, that in substance is how the Board has viewed it, and certainly how the railways have viewed it.

THE CHAIRMAN: If it runs to the whole extent of their line?

MR. EVANS: Yes.

THE CHAIRMAN: I understand Mr. Frawley says he has cases on the point.

MR. FRAWLEY: Yes. I have two or three cases collected.

THE CHAIRMAN: Is that the result of your inquiry.

MR. FRAWLEY: No, I would not say so. I would rather put my cases together and discuss them with the Commission. But if Mr. Evans is answering your lordship on the expression "over the same line or route", before we get to the long and short haul section at all, the first subsection of Section 314, if that means the whole of the line --

Then I simply put the question to him, if there is a class rate charged from Montreal to Ottawa of 10 cents and there is a class rate charged from Medicine Hat to Calgary, assuming it is roughly the same distance, of 15 cents, is that discrimination or otherwise?

MR. EVANS: Of course the answer to that is quite obvious. The answer to that is that the words, "over the same line or route" are only a part of the limitation in subsection 1 of section 314, and of course there are other conditions to be satisfied. I was confining my explanation to the Commission to the meaning of the words "over the same line or route." Substantially similar circumstances and conditions are there; the like kind of cars are there, and all the other qualifications that appear in the subsection.

MR. FRAWLEY: Let us have the same kind of cars exactly; let us have exactly the same traffic and let us have exactly the same mileage, and it is the same line or route. It is the main line of the Canadian Pacific Railway. My friend says that the difference in the rate is justified by those very important words, "under substantially similar circumstances and conditions." That is why I say those words have got to go.

MR. EVANS: We are not discussing those words.

MR. FRAWLEY: My friend says we come right back to those words. He says there are other conditions and that is what justifies the difference between the 10 cents and the 15 cents, or whatever it should happen to be. My friend knows it is there.

MR. EVANS: Of course I do; so do you.

MR. FRAWLEY: That is why I have been down here in Ottawa for the last two or three years because I know they are there, and I have been trying to get rid of them.

THE CHAIRMAN: Let us dispose of it in this way. We will consider this as a preliminary skirmish.

MR. EVANS: I was actually trying to answer the question.

MR. FRAWLEY: It is not a facsimile of what you are going to hear.

THE CHAIRMAN: I still want to hear more about the application of these words, "over the same line or route," as to the extent that you might break it up and say it is no longer the same line although it belongs to the same company.

MR. EVANS: May I put it to you, because I think in this context it is important because we have a traffic witness on the stand --

THE CHAIRMAN: I intended to ask Mr. Jefferson.

MR. EVANS: This is a legal question of interpretation. If there is no other difference than that the two lines are -- they are different lines of railway physically -- carrying traffic for competing producers in a common market, we quite concede that merely because we are operating two separate branch lines, one main and one branch line, we cannot charge a different rate for similar mileage for the same goods except so far as competition may justify it, which is local to one line and not to the other. I cannot put it any clearer than that.

THE CHAIRMAN: Can you tell me now whether in your opinion that would apply equally to conditions along one line but running into different territory? Your line from Winnipeg to Vancouver is all one long line which you might say is broken up at Regina, Calgary, and so on.

MR. EVANS: It certainly would apply to the intermediate point question.

THE CHAIRMAN: I am on the first subsection. I am looking for a definition of those words, "passing over the same line or route" in the first subsection.

MR. EVANS: If you will give me an illustration, I want to be helpful.

THE CHAIRMAN: I have given you the geographic illustration.

MR. EVANS: You said would it apply to the same line from coast to coast. Let me put it this way to you. If the traffic was moving from Montreal to Vancouver there can be no doubt that if we had another line of equal mileage over which we were carrying traffic from a producing area to the same market, we would have to give the same rate. Since there is no such, then the only points would be two, one, where the intermediate point question arises, and then I say it is the same line or route as is in question under subsection 5 with regard to any point intermediate to Montreal and Vancouver. The other aspect is that as between Montreal and Vancouver there may be a route via the Canadian National and a route via the Canadian Pacific. In that case the failure of the two railways to have the same rate would not constitute unjust discrimination. I am sorry I am so obtuse.

THE CHAIRMAN: I am very sorry that does not dispose entirely of the question. Possibly I can simplify that even more. Let us go back again to your own line with no competition at all in sight, and you are running, we will say, from Winnipeg to Vancouver. If you were to charge a different rate after Calgary travelling westward than the one you charged before Calgary, would you have to justify it on the ground that substantially similar circumstances and conditions did not exist in the two areas?

MR. EVANS: I would think so. The same line or route would not enter into that at all.

THE CHAIRMAN: I am surprised to see that it has not been more closely defined in these decisions.

MR. EVANS: I suggest the reason is we recognized from the very beginning the distinction which I made, and we have always followed it. I fancy the very few cases that have arisen explain the fact that the Board itself and the shippers think that is the correct interpretation of the section.

MR. FRAWLEY: The shippers.

COMMISSIONER INNIS: Does the Board look beneath the interpretation of a line of railway to the extent that it may belong to two different companies and yet one company was controlled by the other?

MR. EVANS: I cannot say that I have seen a case of that kind, but it is quite clearly said in this case to which I referred, the Canada West Coal case, if the two different railways are operating -- that question of control, I may add, has been a question that has been occupying the courts in the United States. There have been a lot of artificial statutory definitions as to what constitutes control, and it might be a difficult thing in a given case without a statutory definition of that to determine whether it might constitute control.

COMMISSIONER INNIS: The problem has not arisen here?

MR. EVANS: Not to my knowledge, because our leased lines are a part of our system, and we would never argue that point.

MR. COVERT: Just before we start with Mr. Jefferson, I might add for the record that the same phraseology is used in the American statute.

THE CHAIRMAN: And has been interpreted there, I suppose.

MR. O'DONNELL: That same case I cited of Dominion Sugar Company Limited is given as authority for holding a difference in rates on different parts of the same railway does not necessarily constitute unjust discrimination. That is also brought out in that case.

THE CHAIRMAN: Does not?

MR. O'DONNELL: Does not constitute unjust discrimination.

MR. C. E. JEFFERSON, recalled.

EXAMINATION BY MR. CARSON (continued):

Q. Mr. Jefferson, we were about to come to the subject of competitive rates, and to introduce what you have to say on that I would ask you to read, if you will, paragraphs 46 to 51 of the outline submission on page 70 of Part I.

A. "46. Competitive rates are made for the sole purpose of obtaining traffic that otherwise would be lost to the railways. The level of a competitive rate is not set by the railway but by the competition. A railway has, and necessarily must have, the privilege and responsibility of deciding whether to establish a competitive rate or forego the revenue which could be derived from handling the traffic.

47. As competitive rates are made with particular regard to the traffic on which they are to apply, they cannot be applied as maxima to intermediate points where similar competition does not exist.

48. When a railway, by reducing a rate to meet competition, secures or retains some remunerative traffic that it would not otherwise handle, there is benefit both to the shipping public and to the railway.

49. In such circumstances a community, in which the railway does not have to compete with other transportation agencies, does not suffer when the railway establishes competitive rates in another area. The lower level of transportation charges in the competitive area would be effective there even if the railway had not found it necessary to reduce its rates in order to secure or retain traffic.

50. An application of these principles is found in 'transcontinental rates' in effect between Eastern Canada and the Pacific Coast. These rates were established to enable the railways to secure traffic that would otherwise move by water carriers. These rates do not and should not apply to intermediate points, although in all cases the rate to the intermediate point should not and does not in any case exceed the sum of the competitive rate to the point beyond plus the rate on the return haul to the intermediate point. Competition forces exceptions to the long and short haul principle of rate-making and this is duly recognized in Section 314(5) of the Railway Act.

51. Canadian Pacific submits that the principles governing competitive rates as provided in the Railway Act are sound and no amendments are necessary or desirable."

Q. Mr. Jefferson, in view of the many allegations that have been made at the regional hearings and the submissions that have been filed with the Commission as to the low competitive rates maintained by the railways in Ontario and Quebec, I should like to ask you to read a little more from the further submission at the bottom of page 70 to the end of page 73, and then I will ask you to discuss this briefly. As you know, these rates have been referred to as give-away rates and unremunerative rates and in other such terms. Would you continue now to read from the further submissions on page 70?

A. Competitive rates are published to meet the competition of trucking companies, water lines, short line competition of other railways and market competition such as the competition from the United States or European producers in the Canadian market.

In a number of the submissions made to your Commission and in the discussions at the hearings, it is quite evident that there is an assumption that competitive rates in Eastern Canada and particularly the Provinces of Ontario and Quebec are unreasonably low and in some cases at least, do not pay their out-of-pocket costs. It will be, of course, important to determine whether this is true or not. It would be impossible for any Commission or for any group of individuals to determine definitely that there are no such cases but it is quite possible, as will be shown in the course of this submission, to arrive at a conclusion as to the large body of competitive rates. Canadian Pacific submits that, on the whole, competitive rates are on a compensatory basis.

In any consideration of the question as to whether rates are compensatory, it is important to bear in mind the distinction between less than carload and carload rates. Traffic moving at carload rates is by far the larger in volume and produces by far the greater revenue as compared with less than carload traffic. This is true whether or not we are considering the matter of competitive rates. Less than carload traffic moves in much smaller quantities. In fact, in the year 1948 the average loading of less than carload traffic was 4.78 tons as compared with approximately 36 tons for carload traffic. On the other hand, the average revenue per ton mile on less than carload traffic is more than four times the average revenue per ton mile on carload traffic.

Less than carload traffic is handled through freight sheds whereas carload traffic is usually loaded or unloaded on shippers' sidings or team tracks by the shippers and consignees. In the result, freight shed costs are always incurred by the railway in handling less than carload traffic and are very infrequently incurred in handling carload traffic.

It thus becomes apparent that substantial costs are incurred in the handling of less than carload traffic as compared with carload traffic. It is no doubt for this reason, among others, that the same commodity carried in less than carload quantities takes a higher rating in the Classification. The probability is, as will be later developed in this submission, that if any competitive rates can be considered as too low to meet out-of-pocket costs incurred by the railway they will be found in the competitive less than carload rates.

There was evidence in the 21% Case given by Mr. Knowles that in the case of the Canadian National, competi-

itive traffic accounted for about 16% of the total revenue. There has been no information developed in detail as to the proportion of this 16% which is represented by less than carload business but it must be a relatively small proportion of it. It is thus clear that if the less than carload competitive rates prove in some cases to be non-compensatory when measured in terms of out-of-pocket costs, they must inevitably apply to traffic which is a very small proportion of the total traffic of the railways.

It should be pointed out that generally speaking, the less than carload competitive rates are effective in those areas in which the movements are relatively heavy and the loading per car for less than carload traffic is accordingly much higher in these areas than the system average of 4.78 tons. This aspect of the matter will receive closer attention as the submission proceeds.

As will be shown, less than carload traffic as a whole produces on the average revenue of only 21.4¢ per car mile,---

MR CARSON: Just a moment, Mr. Jefferson. Has the Commission's copy been corrected, changing that figure from 19.7 to 21.4?

THE CHAIRMAN: No.

MR CARSON: It is a correction that should be made.

Q. Yes, Mr. Jefferson?

A. ---but in many cases in the areas where competitive rates are to be found, the car mile earnings on less than carload traffic are found to equal and even exceed car mile earnings on some categories of carload traffic.

The growth of motor truck competition was most marked in the period beginning about 1930. This coincided with the great depression which began in that year and lasted for approximately eight or nine years. During this

period not only was the cost of railway operation on a much lower level but the amount of traffic carried by the railways declined to an even greater extent. In the result, therefore, the railways had capacity which was to a large extent unused and at the same time substantially lower wage and material costs. It was therefore inevitable that there should have grown up in that period a very large number of competitive rates. It should occasion no surprise that this centred to a larger extent in Eastern Canada than in Western Canada. This was due to the greater density of population, the greater volume of commodities susceptible to truck competition in Eastern Canada, the proximity of cities and towns in Eastern Canada to one another and the development of a network of surfaced highways as well as the presence of the great waterway provided by the Great Lakes and the canal system in Eastern Canada.

When economic conditions changed and the war intervened, the railways were prevented from increasing their competitive rates by Order No. 92 of the Wartime Prices and Trade Board made pursuant to Orders-in-Council P.C. 8527 and P.C. 8528, dated November 1, 1941. By the time these Orders-in-Council came into effect only a few adjustments had been made in competitive rates to meet changing conditions. Order No. 92 remained in effect until September of 1947 and since that time substantial increases have been made in competitive rates in both Eastern and Western Canada as well as in the transcontinental rates. The process of adjusting these rates upwards in view of increased costs of operation, as well as the changing conditions in regard to competition itself, is continually going on. Apart from an increase in competitive rates of 15% in addition to the general increase of 21%, there have, up to the present, been a number of other increases in

these rates and a number of them have been cancelled.

Q. That is, a number of the competitive rates have been cancelled?

A. A number of the competitive rates have been cancelled, yes, sir.

COMMISSIONER INNIS: Q. Do those competitive rates assume that the competitors have had more or less equal increases in costs?

A. I beg your pardon, sir?

MR CARSON: Q. Do those competitive rates assume that the other competitors have had more or less equal increases in costs -- where you have been putting them in, Dr. Innis means?

A. You mean costs of operation?

Q. Yes.

COMMISSIONER INNIS: Q. That is to say, both competitors, or whatever competitors you have in mind, have all found their costs increasing?

A. Yes, sir.

Q. Therefore both increased their competitive rates?

A. Yes, sir. I do not know to what extent the competitors have increased their rates, but I think a lot of the rates of other competitive agencies of transportation have increased their rates along with railway rates -- not always to the same extent.

Q. Otherwise you could not have increased them?

A. Otherwise we could not increase ours.

MR CARSON: Q. It was the increase in the costs of your competitors that made it possible for you to increase your competitive rates in a great many cases?

A. Yes, sir.

Q. I am putting that as a general statement.

A. That is right.

MR O'DONNELL: I had in mind what Mr. Magee said, you will remember, Dr. Innis; he said there was an interim period during which the trucks had increased 20% before the railways had obtained their increase.

MR CARSON: Q. Then, Mr. Jefferson, we next come to a section of the submission headed "As to the compensatory character of carload competitive rates". I am not going to ask you to read just at this stage, but would you tell the Commission what you would like to refer to in the first instance?

A. Well, I would like first to refer to the table at the bottom of page 74 of Part I, which summarizes the average haul, the average per car mile revenue, for traffic moving at truck and water competitive rates, shown on pages 56 to 61 of the Appendix. It is interesting to note that the average haul for traffic handled at motor truck and water competitive rates in Eastern Canada is approximately the same as the average haul for all traffic in Eastern Canada. The statement shows that the average haul for the eastern region for the competitive rates is 293.9 miles, and for the eastern region 298.7 miles; whereas revenue per car mile for the competitive rates is nearly double revenue per car mile for all other traffic in Eastern Canada.

Q. That is the 62.4¢ as compared with the 36.3?

A. That is right. The car mile revenue for the competitive traffic in Western Canada is approximately two and a half times the car mile revenue for all traffic in Western Canada, but the average haul for the competitive traffic is 197.9 miles as compared with 434.9 miles for the western region.

Q. Now, Mr. Jefferson, would you be good enough to look at pages 56 to 61 of the Appendix; that is a state-

ment entitled "Statement of motor truck and/or water competitive rates and earnings for representative movements."

Will you please explain and make such comment as you think necessary on the data contained in that statement?

A. These statements on pages 56 to 61 of the Appendix show a number of representative carload movements at motor truck and water competitive rates in both Eastern and Western Canada.

Q. Eastern Canada commences at page 56, and Western Canada at page 61?

(Page 13946 follows)

A. That is right. As stated at page 74 of Part I, these movements were not selected with the idea of showing only rates which are compensatory. The examples were picked at random from the rate tariffs after which the other data shown was obtained from the waybills. The average weight is the average of the first ten cars shipped in 1948 except in a few cases where the average weight is for the total movement in 1948 where it amounted to less than ten cars.

Q. Are you referring now to the column entitled "Average Loading Weight"?

A. Yes sir, the average loading weight is usually much greater than the minimum carload rate, and in showing the per car and per car mile earnings we wanted them to be as near the actual loading as possible. If this had been based on the minimum car load rate, they would have been less. A review of the earnings per car mile and per ton mile covering the movements shown on pages 56 to 61 of the Appendix, clearly indicates that the car load competitive rates are in the main highly compensatory. The earnings shown for the movements on pages 56 to 60, that is the movements in Eastern Canada, certainly should eliminate ^{rates} from the minds of anyone that the competitive/in Eastern Canada are give-away rates. The average revenue per car mile for the car load competitive movements in Eastern Canada is 62.4¢ as compared with 36.3 for all traffic.

Q. You get that 62.4 on page 60. I was just looking for the 36.3?

A. That is on page 74.

Q. Thank you.

A. And it is also at the bottom of page 61 of the Appendix. The average revenue per ton mile for all traffic in Eastern Canada is 1.27¢ and it will be noted that the

earnings per ton mile for the movements at these competitive rates is in most cases higher. The only instances where the earnings per ton mile at the competitive rates are lower than the average for all traffic are in certain movements of raw materials such as billets and pig iron where the earnings per car mile are compensatory in view of the heavy loading.

I might refer there to the second item on page 56 of the Appendix in connection with the movement of billets and blooms from Hamilton to Montreal. The ton mile earnings are 71¢, the car mile earnings are 40.5¢ because of the higher average loading weight of 113,900 pounds per car.

Q. Those are the two important figures. I see, just taking that one item as an illustration, you give the distance in miles as 384 miles, and the rate per hundred weight on the commodity \$3.06, and then the minimum car load weight and the average loading weight, and then the earnings under three headings, "Per Car", "Per Car Per mile" and "Per Ton Per Mile" and then the car load references. I was wrong when I said \$3.06 per hundred pounds; that is per ton.

A. Per gross ton.

Q. That it would make it pretty high, wouldn't it?

A. Yes. Now, the next item that I would mention there is the one on pig iron from Sault Ste. Marie to Montreal.

Q. That is the ninth item?

A. Yes sir, six hundred and twenty two miles, the rate is \$5.91 per gross ton, the earnings per ton mile 85¢ with an average loading of 115,160 pounds. The per car mile earnings are 48.8.

Q. What about automobiles?

A. In the case of automobiles, the car mile earnings seem low. In the first example in automobiles from Windsor to Montreal, 567 miles, the rate is \$1.18 per hundred weight

the average loading only 10657 pounds, which produces a per car earning of \$125.75 and per car mile earnings of 22.2 cents. This is due to the light loading, as only in the neighborhood of 10,000 pounds of automobiles can be loaded in a boxcar.

Q. How many cars would that be in a boxcar?

A. About three automobiles.

THE CHAIRMAN: How many pounds did you say?

A. 10,657 pounds.

MR. CARSON: As the average loading per car, and I was asking him how many motor cars they would get into a car and he said about three.

A. Yes.

Q. What kind - three Chevrolets or three Cadillacs?

A. You might get four Chevrolets or four Fords but three of the larger types. This does not mean, however, that in the case of automobiles from Windsor to Montreal that 22.2¢ per car mile is not compensatory in a car containing only about 10,00 pounds or 5 tons in comparison with the average system earnings of 35¢ per car mile for an average loading of 36 tons. The revenue per ton mile on automobiles is more than three times the ton mile average revenue for all traffic. It is mentioned on page 75 of Part I of the Submission that even at the normal first class rate with a minimum load of 10,000 pounds of automobiles, the car mile earnings would still be below the system average.

Q. Now, is there anything more you want to refer to on those tables before I go to the next question?

A. We could refer to many of these examples. Take for instance, if you like, at the top of page 57, canned goods from Hamilton to Montreal, a distance of 384 miles, that is not quite a hundred miles more than the average haul in the east, and the rate is 41¢ and the average loading

40,125 pounds producing a per car earning of \$164.51 and a per mile earning 42.8¢. There is one point, however, I would like to mention in connection with these pages 56 to 61, that the interim increase of 8% does not apply to those rates. The figures of these statements, although dated 1st of October, are correct. Now, here is a competitive rate on cement, the fourth line -

THE CHAIRMAN: Did I understand Mr. Jefferson to say that the 8% increase does not apply to these particular rates?

MR. CARSON: What he was saying, as I understand it - you were speaking about canned goods?

A. Yes.

Q. And you were telling the Commission in making up these Tables 56 to 61, the rates shown and the calculations made did not take into account the 8% increase?

A. They were not increased.

THE CHAIRMAN: That is what I understood. So they are still the rates in force?

MR. CARSON: These are the prevailing rates today?

MR. FRAWLEY: It is not only canned goods.

MR. CARSON: We were asking about that one item, Mr. Frawley. There are other items Mr. Jefferson, in the same category?

A. All of the items of pages 56 to 61.

MR. BARRY: Could we have the normal sometime later or could we have them now - sometime after we come back?

MR. CARSON: They are asking, Mr. Jefferson, for the normal rates on these commodities. Do any of these commodities move at normal rates?

A. No sir.

MR. FRAWLEY: But the interesting thing is to get an idea of the differential.

MR. EVANS: There is one example given in our Brief Mr. Frawley.

THE WITNESS: Some of these commodities now would have a normal commodity rate if you did not have a competitive commodity rate, and in some instances the only comparisons that could be made would be the competitive rates with the class rates, and that would not be a fair comparison.

THE CHAIRMAN: I would like to ask another question just to clear up what you said about the 8% increase not having been applied to these particular cases. Is that because the railway has not seen fit to apply the increases or because the increase allowed by the Board has exceptions to it?

MR. CARSON: Do you follow that Mr. Jefferson?

A. Yes. Under the decision of the Board we could have increased them 8%. They were all increased 15% in September 1948, and many of them had later increases, and it was considered by the railways that we could not again increase them 8% without conducting another investigation to see if the rates could be further increased.

THE CHAIRMAN: That is, without looking into the competitive character of the business?

MR. CARSON: Without looking again into the competitive character of the business?

A. That is right.

MR. FRAWLEY: It is dealt with in paragraph 3, sir, of the latest order of the Transport Board, the one which granted an interim increase of 8%. It is found on page 30 in the pamphlet copy of the Judgment. Paragraph 3 says:

"Competitive Freight Rates established to meet motor truck and/or water competition, or other form of competition, may be adjusted within the discretion of the railway companies concerned."

That is important, because, as your lordship knows, competitive rates are put up or down by the railway companies quite regardless, one might say, of the Board of Transport Commissioners at all, so long as they do not exceed the normal rate.

MR. CARSON: Except on one occasion when we attempted to put them up and the provinces opposed them and got them suspended.

THE CHAIRMAN: This just means then, that while your ceiling on canned goods, like anything else, was raised 8%, you have not raised the actual rate in proportion?

MR. CARSON: No, because Mr. Jefferson says it required further study.

MR. O'DONNELL: We had the 21 Percent and then 15 per cent as well and we are studying as far as the Canadian National is concerned, the extent to which they may further be increased.

THE WITNESS: That is correct.

MR. CARSON: And the Canadian Pacific is also studying them?

A. Yes sir.

MR. FRAWLEY: Oh yes - all studying them.

MR. COVERT: Mr. Chairman, as I understand it, there was a request that there be added to these figures what the normal rates would be. Now, I understand that there may not be normal rates for some of these commodities. There might be what they call a normal basis but there are no normal rates. Perhaps Mr. Jefferson could advise whether or not that is so?

MR. CARSON: I thought I had asked him, Mr. Covert, but might I ask him again. As I understand it, in the listing of these competitive rates 56 to 61, there are no normal rates?

A. I said there may not be a normal commodity rate which there might be if you did not have a competitive rate.

Q. But at any rate, the rates upon which these commodities moved between the points of origin and point of destination shown on these pages, those are the rates which move the traffic?

A. Move the traffic today, yes, sir - that is right.

Q. I was asking Mr. Jefferson's assistant about the request of Mr. Barry. I am just wondering if there is any way my friend Mr. Barry could lessen that a little bit. I am told that is quite a sizeable job.

MR. BARRY: As I understand, there is either a normal commodity or a normal class rate, even if it is only a paper rate.

THE CHAIRMAN: Then the commodity would be lower than the class rate?

THE WITNESS: That is right.

THE CHAIRMAN: Naturally, and the competitive rate also.

MR. FRAWLEY: I think, my lord, the question to ask the witness is, what would be the rate if you pulled out the competitive rate. What would be the rate if you pulled out the competitive rate?

MR. BARRY: That is it expressed in another way.

THE CHAIRMAN: What is the answer to it?

MR. FRAWLEY: What is the answer, Mr. Jefferson? Take any one of your instances, what would be the rate if you pulled out the competitive rate for some reason or another?

A. I cannot tell you today what it would be. I would have to find out what it would be.

Q. But it would automatically come to either an existing commodity rate or the ceiling class rate?

A. What I am trying to say is that because we have got a competitive commodity rate, we might not have a normal

commodity rate. The only comparison would be with the class rate which might not be fair.

Q. In every instance there always must be a rate which would automatically appear when you eliminate the competitive rate, and I think you said, it might, in some instances, be a class rate and that would be so far up that it would not be fair to use that as a comparison?

A. That is right.

MR. EVANS: My friend could find an example of just that very thing on page 75 of Part I of our Brief. We there show the rate on automobiles in the absence of the competitive rate near the bottom of the page:

"The normal rate on automobiles as established by the Classification is the first class rate with a minimum load of 10,000 lbs. per car. The first class rate for the distance from Windsor to Montreal is \$1.31 per hundred pounds and a shipment weighing 10,657 lbs. such as that shown as the first item of the Table would yield only 24.6¢ per car mile. This compared with the competitive rate of \$1.18 per 100 lbs. and a car mile earning of 22.2¢."

That is an example of the thing my friends have in mind.

THE CHAIRMAN: Before we proceed, Mr. Frawley, would you refer me again to that page?

MR. FRAWLEY: Page 30 of the little blue book, sir.

MR. CARSON: Paragraph³ in the formal Order of the Board

THE CHAIRMAN: The formal Order says:

"Rates in Standard Freight Tariffs may be increased eight per cent."

MR. FRAWLEY: And 2.

THE CHAIRMAN: "Rates in Special Freight Tariffs,

except as hereinafter specified, may be increased eight per cent."

MR. FRAWLEY: And that is all the Board does, They authorize increases in both those kinds of rates except that by paragraph 4, the rate on coal and coke-- I might be tempted to call the Commission's attention to the fact that the rate on coal and coke might be increased 8 cents per ton.

COMMISSIONER ANGUS: Following the example that Mr. Evans just gave, was the \$1.31 increased by 8% since then?

MR. EVANS: Oh yes.

COMMISSIONER ANGUS: So that the proportion is just a little different?

MR. EVANS: Yes, I was not making any comment on the difference. The first class rate on automobiles, Mr. Jefferson you were saying--?

A. The present first class rate on automobiles from Windsor to Montreal, as shown on page 75, is \$1.31. Increased 8% would be \$1.41 in comparison with the competitive commodity rate of \$1.18.

MR. CARSON: I do not know just where we stand about this request. I am told it is quite a sizeable job to get out these rates.

MR. BARRY: I have spoken to Mr. Evans about it and I think it is quite possible to get them.

MR. CARSON: How many would suit you? A dozen? Let us take a dozen and a half, or whatever number is not the full list.

MR. BARRY: I am advised it is not such a tremendous job.

MR. O'DONNELL: "Under advisement to do it" doesn't mean anything.

MR. FRAWLEY: There you are. That's the last word.

MR. BARRY: It would illustrate a lot more if we knew what the normal class and commodity rates were.

MR. EVANS: You do not test the propriety of a rate compensatory rate by reference to the normal rate.

MR. FRAWLEY: You are suggesting this: How much money has the railway company -- I hate to use the expression "given away", because Mr. Jefferson dislikes it so much -- but how much money have you failed to collect of the total amount, in millions of dollars, between that and the different competitive rates in Eastern Canada, what they cost the company in millions of dollars in Eastern Canada, judging them by the difference between the normal and the competitive rates?

MR. O'DONNELL: How much do they procure for the company which would otherwise go to the trucks or steamships?

MR. COVERT: Could we not settle it by asking them to take two pages, one out of the East and one out of the West, and give us that when we re-assemble?

MR. BARRY: I do not think that would be sufficient.

MR. COVERT: How difficult a job is it? Would it be possible to give us them without too much trouble when we re-assemble on January 30?

THE WITNESS: Take pages 56 to 61. It would not be much of a job. But we have got to find out what the rate would be, not necessarily the class rate, but what the rate would be if we did not have a competitive rate.

MR. COVERT: I understand that; but it has been suggested that two pages would not be enough. I want to know if it would be a terrific job to get all the pages between now and January 30.

A All the pages?

Q. Yes, all the ten pages.

A. I think that would be asking far too much. I would prefer some one to take it and say what line or commodities or movements they wanted compared.

Q. It would amount to about five and a half pages in total.

A. Yes, it would be quite a job to analyze these rates.

MR. CARSON: We will see what we can do.

THE CHAIRMAN: We should bear in mind that not only is there the East and the West, but there are the Maritime Provinces also.

MR. FRAWLEY: That is right. I think there should be three groupings.

MR. CARSON: I wish we could change the subject.

MR. FRAWLEY: I do not know what that is going to do to the statement Mr. Jefferson prepared. I suppose Mr. Jefferson might say, in every instance: I think there will be a special commodity rate there, probably. So we would have a lot of his judgment introduced into the statement.

which I suppose is inevitable.

THE CHAIRMAN: If there were a void there we would go back to the ceiling.

MR. FRAWLEY: That's right. I wonder in how many instances we would have to go back to the ceiling.

MR. EVANS: If I may contribute something: It does seem to be perfectly hopeless to expect us to prepare a statement of rates on the assumption that we are to find out what the rate would be without a given set of circumstances. It seems to me that all we should be expected to do would be: If you took a rate out to-morrow, what would be the resulting rate? You might again have to look at the class rate to see if it was proper. But with that qualification, if you just took out a competitive rate to-morrow, and found out what the resulting rate would be, that would be a relatively simple matter.

MR. BARRY: That is all I want.

MR. COVERT: Is that the normal class or commodity rate? Give us the normal class or commodity rate with respect to these five pages.

THE CHAIRMAN: If there is no commodity rate in a given case, then there is the class rate.

MR. FRAWLEY: But after that list has come in, then Mr. Evans and Mr. Carson would be the first to say: We do not say that is the thing you should look at, because there probably would be a special commodity rate put in there; so you cannot judge the number of dollars between the competitive rate and the class rate which would be there automatically. I can quite see the position we are going to be put into.

MR. COVERT: That would be a matter for argument when the time came.

MR. CARSON: We understand the request, Mr. Covert, and it will be complied with.

THE CHAIRMAN: We shall adjourn for a few minutes.

- - - - -

(Upon resuming)

MR. CARSON: Q. What have you to say, Mr. Jefferson, with respect to railway revenue in meeting truck or water competition?

A. The opinion seems to prevail that the railways, in meeting truck or water competition, lose revenue, particularly in Eastern Canada, and therefore increase other rates to make up the loss, particularly in Western Canada where there is no water competition, and where truck competition is less severe.

This is not so. In providing for competitive rates, the railways gain revenue which they would not otherwise have. If the competitive rate was not published, there would be an absolute loss to the railways.

Q Yes. Then at page 76 the submission continues under the heading "Motor Truck and Water Competitive Rates". Do you wish to say something about what follows?

MR. FRAWLEY: Am I to understand that you are not going to have Mr. Jefferson run over the competitive rates in the West and draw out some examples for us, as he did in the case of Eastern rates?

MR. CARSON: We will be glad to do that.

THE CHAIRMAN: Are they set out in the Appendix?

MR. FRAWLEY: Yes. For example, the sugar rate out of Raymond as compared to the sugar rate out of Montreal.

MR. CARSON: Mr. Frawley would like you to draw attention to two or three competitive rates in the West which he thinks would help his case.

MR. FRAWLEY: I thought it was part of your case.

MR. CARSON: Mr. Jefferson said that he picked them at random.

MR. FRAWLEY: So far he has picked them all from Eastern Canada.

THE CHAIRMAN: You are at liberty, Mr. Frawley.

MR. FRAWLEY: Very well, I will withdraw my question. Do not stop on my account.

THE WITNESS: I had no intention of stopping.

MR. FRAWLEY: I am sure you did not intend to stop; and if there was any fault I am sure it was Mr. Carson's.

MR. CARSON: All right I am at fault. Would you refer to a couple of Western rates?

MR. FRAWLEY: Take a lot. Take two.

THE WITNESS: I will take the first one here on ale, beer and porter from Winnipeg to Brandon.

MR. CARSON: Yes.

A. 134 miles; where the rate is 28¢; the average loading per car, 47,880; and the car mile earnings \$1.00.

I was going to see if I could find one which would average about the average haul in the West, 198 miles. The nearest one I think to that is lumber, green rough lumber from Winfield, Alberta, to Calgary, Alberta, 170 miles; the rate is 15¢; the average loading per car 68,580 lbs., the revenue per car \$102.87; and the per car per mile is 60½¢.

The next item, mine props, from Rocky Mountain House, Alberta, to Rosedale, Alberta, 258 miles; the rate, 15¢; average loading, 53,100 lbs., car earnings \$79.65; car mile earnings, 30.9¢.

Q. Will you give Mr. Frawley the sugar?

A. Sugar from Raymond, Alberta to Calgary, Alberta, 153 miles, the rate 35¢ per 100 pounds; average loading per car 41,631 pounds; earnings per car \$145.71; earnings per car mile, 95.2¢.

MR. FRAWLEY: Will you look at sugar from Montreal to Quebec, 173 miles. It is on page 58.

MR. CARSON: Sugar is Montreal to Hamilton.

THE WITNESS: Montreal to Quebec.

MR. CARSON: Q. Sugar.

A. Yes, sugar from Montreal to Quebec, 173 miles.

THE CHAIRMAN: Where is that?

MR. CARSON: It is about two-thirds down the page, down from "soap".

THE CHAIRMAN: Yes, I see.

THE WITNESS: The rate, 19¢ per 100 pounds; the average loading per car, 99,353 pounds; earnings per car, \$188.77; earnings per car mile, \$1.09.1, that is a dollar and nine decimal one cents.

I would like to point out that the car mile earnings from Montreal to Quebec for 173 miles are in excess of the car mile earnings on page 61, in the case of sugar from Raymond to Calgary. But of course the average loading in the case of Montreal to Quebec is heavier.

MR. FRAWLEY: The ton mile earnings are about half.

MR. CARSON: Q. The average loading seems to be twice the loading as between Raymond and Calgary.

A. Yes.

Q. Turning now to page 76 under the heading of "Motor Truck and Water Competitive Rates"; is there some part of that you would like to develop?

A. Yes sir. I was going to read from the bottom of page 76 to and including the last complete paragraph on page 77.

Q. Yes.

A. This is "Motor Truck and Water Competitive Rates". Rates published by the railways to meet water competition are maintained during the season of open

navigation, generally from April 15 to November 30th of each year.

Rates published by the railways to meet motor truck competition, with a few exceptions, are generally in effect throughout the year as the highways are to a large extent kept open during the entire year.

Contrary to the opinion which seems to prevail in certain quarters, the railways do exercise a great deal of supervision with respect to rates which are published to meet motor truck and water competition. This is simply a matter of good business.

Following the increase of 15% in these rates in September 1948, a survey was made of all competitive rates to determine what further adjustments could be made due to changing conditions.

As a result of this survey many hundreds of these rates were found to be unnecessary to meet competition and were cancelled, allowing the normal rates to apply. In some cases there was no movement under such rates and in other cases the competitive rates were approximately the same as the normal rates due to the additional 15% increase referred to above.

In other cases it was considered that due to the rising costs of competing carriers, many increases could be made, some of a substantial amount.

When competitive rates are reviewed and a decision is reached to allow the competitive rate to remain unchanged, the Canadian Pacific has satisfied itself that not only would an increase in rate result in a loss of traffic but also that the rate as it stood was reasonably compensatory. In this connection the practice followed by the traffic officers of the company in determining whether a given rate is compensatory is to consider, among other things, the

car mile and ton mile earnings, the length of haul, and the volume of traffic involved. If the car mile and ton mile earnings are at least equal to the average of the earnings on the system, it is considered that prima facie the rates are compensatory. In marginal cases such matters as length of haul, volume and direction of movement of traffic may be the determining factors.

(Page 13975 follows)

Q. Now then, commencing at the bottom of page 77 and carrying through to the bottom of page 80 reference is made to "at and east" grain rates in relation to other export and import traffic. What comments have you to make on that subject?

A. The table on page 78 shows the net earnings per car mile on wheat from Port MacNicol to Montreal and West Saint John for export. The car mile earnings to Montreal are, I consider, compensatory.

Q. That is --

A. 34.4 cents per car mile.

Q. Yes?

A. The net earnings per car mile to West Saint John could not in themselves be considered compensatory. They may, however --

Q. That is 19.9?

A. 19.9 cents, yes, sir. They may, however, be so considered in the light of the competitive conditions which the railways in their interests are required to meet, and in addition a protection of Canadian commerce and the development of Canadian ports.

Q. Yes?

A. There are the following factors to be considered in assessing the propriety of such rates. First the low rates to Saint John are necessary if Saint John is to be maintained as a port through which export of this grain traffic can move in competition with United States Atlantic ports. This has been looked upon as a matter of national importance, and the policy of making low rates to the Maritime Atlantic ports has been recognized for many years. There is a reference here to 33 C.R.C. at page 172.

Q. I believe that is a case where the Board recognized that this was a matter of importance.

A. That is a decision of the Board in/^{the}general freight rates investigation.

Q. Yes.

A. Secondly, apart altogether from the importance of keeping the Maritime ports as ports through which during the winter months eastbound export traffic and westbound import traffic could move, the movement of grain through Saint John provides for ships which --

Q. Provides traffic for ships.

A. Provides traffic for ships which would not otherwise call at Saint John, but which might otherwise call at the United States Atlantic ports. In this event the probability is that the Canadian Pacific would lose a very considerable amount not only of import traffic but also export traffic other than grain if it were not able to provide outbound cargoes of grain.

Q. I gather you say that is all to the good of Saint John?

A. Third, it is at least a probability that if the movement of traffic during the winter months were not maintained through the port of Saint John as well as the port of Halifax, there would be a decreasing movement through the ports of Montreal and Quebec during the summer months.

THE CHAIRMAN: Q. Why is that?

A. The main reason for that is that the grain has to be in position, and if you have grain at the bay ports you want both Saint John and Montreal ports open; otherwise the grain would move through Buffalo and United States Atlantic ports. As has been shown on page 80 of the submission, grain through the port of

West Saint John amounted to about 18 per cent of the total carload movement of export and import traffic through that port.

Q. That is described in the last paragraph on page 80, I believe?

A. Yes, sir; that was for the winter shipping season of 1948-49.

Q. Then, on the next page the submission continues with less than carload competitive rates. What have you to say on that subject, Mr. Jefferson?

A. I should like first to read the first paragraph on page 81.

Q. Yes?

A. In the case of less than carload competitive rates, car mile earnings cannot be calculated except on a statistical basis. In any case they are, as a whole, substantially below the system average because the average loading in less than carload movements is low. Ton mile earnings are, however, an important consideration in the case of less than carload rates.

Q. What have you to say about Table 1 that appears on page 81?

A. This table on page 81 shows the tonnage, revenue, ton miles, average rate per ton, and the average rate per ton mile for less than carload traffic compared with carload traffic for the year 1948. The figures in this table are actual except that the figures of ton miles and the average rate per ton mile for less than carload and carload traffic were estimated, as no segregation of the totals in this respect is available in the company's records.

Q. Yes?

A. The figures of ton miles for less than carload

and carload traffic were estimated on the assumption that the ton miles in each case would have the same relationship between carload and less than carload traffic as the tonnage. That is to say, that the average haul would be the same for carload as for less than carload traffic.

Q. What is the average rate per ton mile, just in a word?

A. The average rate per ton mile is the number of tons one mile divided into the revenue.

Q. What does that show?

A. This shows that the average revenue per ton mile for less than carload traffic is more than four times the revenue for carload traffic, and which, as stated on page 82 of the submission, is due to the much higher rates applying to less than carload traffic.

Q. That is comparing the \$4.37 with the \$1.04?

A. Cents, not dollars.

Q. 4.37 cents and 1.04 cents?

A. Yes.

Q. On page 82 you have a table entitled, "System - Rail Lines Only". What have you to say about that table?

A. Table 2 on page 82 of the submission is a comparison of the loaded car miles, the revenue and the average revenue per loaded car mile for less than carload traffic with carload traffic for the year 1948.

Q. What does it show?

A. It shows that the average revenue per loaded car mile for less than carload traffic is 21.4 cents compared with 37.8 cents for carload traffic. The lower average revenue per loaded car mile for less than carload traffic is due to the light loading per car. The average loading in 1948 of less than carload traffic

was less than five tons compared with 36 tons per car for carload traffic.

Q. Have you something to say about page 83?

A. As stated on page 83 of the submission, the lower averages for less than carload traffic than for carload traffic are due primarily to the light loading of so-called less than carload way-freight cars moving to and from the smaller stations. While such way-freight cars account for a substantial aggregate mileage, they handle a relatively small amount of the total of all less than carload freight, because the bulk of this traffic moves between the larger centres where the loading is substantially heavier with consequent higher earnings per car and per car mile.

Q. Now then, I think you would like to say something about pages 62 to 65 of the appendix which is a table entitled "Statement of less than carload merchandise cars", from certain places. Would you say what you have to say about that in your own words?

A. The tables on pages 62 to 65 of the appendix are a statement of the less than carload merchandise cars from Montreal, Toronto, Winnipeg, Moose Jaw, Saskatoon, Regina, Calgary and Vancouver to various destinations for representative dates in the month of June, 1949.

Q. These are the larger cities you have taken, I gather?

A. Yes, sir.

Q. Do you say these movements are typical?

A. These movements are typical from the points shown, but we have not taken the same destination points from each shipping point because they would not be the same.

Q. Quite so. Now then, what would you say about this page?

A. This is a statement showing the point of origin, destination, miles, the average weight per car, the average rate per hundred pounds, and the average revenue per car and per car mile. Before giving any examples from these pages, I should like to say that as mentioned on page 83 --

Q. Of the submission?

A. Of the submission -- the earnings for these movements had of necessity to be estimated. In basing the earnings, we used the second-class rates, group 2 P.&D. rates --

Q. That is pick-up and delivery?

A. Pick-up and delivery, yes, or less than carload all commodity rates where in effect. We considered that the second-class and the P. & D. group 2 rates represent a fair average for less than carload traffic. Where pick-up and delivery service is authorized, the costs of such service at both the shipping point and destination have been deducted.

(Page 13982 follows)

As pointed out on page 83 of the submission, the results shown in these statements on pages 62 to 65 of the Appendix are not the actual revenues from and to these Pacific points shown, because we have used average weights and average rates, and some of the cars include some trans-shipped freight, but, as already mentioned, it is my considered opinion that the second class basis is a fair and reasonable average to use.

Q. Now, what do these tables indicate, Mr. Jefferson?

A. These tables clearly indicate that the earnings on less than carload merchandise cars from the larger centres are compensatory in comparison with the average per car mile revenue for all traffic on the system of 35¢. While in a few cases the car mile revenue for these less than carload merchandise cars is less than 35¢, it will be noted that such cases are due to the light loading. The system average of 35¢ per car mile is for much heavier loading per car, namely, 36 tons or 72,000 pounds.

Q. And these tables, I see, give in each case the average weight per car in pounds?

A. Yes, sir. Now perhaps you would like---

Q. Yes; are there two or three illustrations you would point to?

A. Well, I will take one where there is a very substantial movement, like Montreal to Toronto.

Q. That is Montreal; it is the fifth item on page 62.

A. Yes, sir; 344 miles. The average rate is 62¢. Now, in that case the average rate used was the average of the two all-commodities less the pick-up and delivery expense. When I say two all-commodities, the explanation is that one rate is if a shipment is less than 5,000 pounds and the other rate is for shipments of 5,000 pounds or over. From Montreal to Toronto the average revenue, after

deducting, as I said, the pick-up and delivery expense, is \$184.72 per car, or 53.7¢ per car mile. Now, we might take a shorter haul, Montreal to Sherbrooke, the first item, 113 miles, average weight 19,700 pounds, average rate 46¢ after deducting the pick-up and delivery expense, per car revenue \$90.62, car mile revenue 80.2¢. Now, we might take one going to the west from Montreal, where there is no deduction for pick-up and delivery expense, because movements of that kind do not get free pick-up and delivery service. In the case of Montreal to Winnipeg, for a distance of 1414 miles, average weight 23,308 pounds, rate \$2.69, average revenue per car \$626.99, per car mile 44.3¢.

Q. Now, I noticed you said that there were a few cases where the car mile revenue for these less than car-load merchandise cars is less than 35¢?

A. Yes, sir.

Q. But you said that in those cases, or you drew attention to the fact that the loading per car was relatively light; would you just point to one or two of those so that the Commission has those before it?

A. The only one from Montreal in the table is in the case of North Bay, where your car mile revenue is 33.2¢.

Q. And the loading there---

A. The loading to North Bay was 14,657 pounds per car.

Q. I notice that on the next page we find some of those rates in movements originating in Regina, but one can see at a glance that the average weight per car is relatively low all through those examples.

A. Well, here is one, in the case of Regina to Yorkton, on the lower part of page 63, the distance 231 miles, average weight per car 8,093 pounds, average revenue per car \$42.08, per car mile 18.2¢.

Q. Well, that is one of the exceptions you were

speaking about?

A. Yes, sir.

Q. Are there any others that you want to mention or refer to by way of illustration?

A. Mr. Frawley might like us to take one from Calgary.

Q. Yes, give us a Calgary one.

A. On page 64, Calgary to Edmonton, 195 miles, average weight per car 15,301 pounds, average revenue per car \$55.08, and per car mile 28.2¢.

MR FRAWLEY: Q. Did you move that yourself or have Dench move that?

A. Beg pardon?

Q. Dench did not move that; Dench of Canada did not move that?

A. I do not think so, no, sir.

Q. You moved it?

A. We moved it, yes, sir.

MR CARSON: Q. Now, I think you pointed out that the system average of 35¢ per car mile is for much heavier loading per car, namely, 36 tons or 72,000 pounds?

A. Yes, sir, that is right.

Q. Now, Mr. Jefferson, are there any more there, or do we go on to the next?

A. I was just noticing here in the case of Vancouver there were not any cases below 35¢ a car mile, except the case of Kelowna 34½¢; that is the only instance there.

Q. Now, what about the tables on pages 66 to 71?

THE CHAIRMAN: What is that you are referring to?

MR CARSON: Pages 66 to 71, my lord, of the Appendix. There are some tables there that I want to ask Mr. Jefferson about.

Q. What do those tables show, Mr. Jefferson, at 66 to 71?

A. The tables at pages 66---

THE CHAIRMAN: Better begin them tomorrow morning.

MR CARSON: Thank you, my lord.

---At 4:42 p.m. the Commission adjourned until 10:30 a.m. on
Friday, December 16, 1949.

A.R.

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ROYAL COMMISSION
ON
TRANSPORTATION

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MR. C. E. JEFFERSON - Recalled. Examination by
Mr. Carson resumed - - - - - 13986

EXHIBIT No.143: Filed by Mr.Carson. Statement of rates of selected Commodities from Montreal and Toronto to Vancouver in effect April 1, 1910, August 6, 1913, and November 1, 1949 as compared with class rates applicable to these commodities on the same dates 14057

EXHIBIT No.144: Filed by Mr.Carson. Summary of traffic received at Vancouver during part of 1948 and 1949.

EXHIBIT No.145: Filed by Mr.Carson Book entitled "Government of Canada, Shipping Returns Year ended December 31, 1948, D.B.S. Publication - - - - - 14066

Noon adjournment - - - - - 14066

MR. C. E. JEFFERSON - Recalled. Examination by
Mr.Carson resumed - - - - - 14067

EXHIBIT No.146: List of cargo carried on S.S.Eskalegate, and S.S. Seaside - - - - - 14068

- - - - -

MR. COVERT: Statement re proposed agenda when reconvening January 30th, 1950 - - - - - 14093

Statement -- "Argument by Counsel" - - - 14097

- - - - -

On resuming examination of Mr.Jefferson: - - - - 14103

Adjournment until January 30th, 1950 - - - - - 14124

- - - - -

ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO,
FRIDAY,
DECEMBER 16, 1949.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN
HAROLD ADAMS INNIS - - COMMISSIONER
HENRY FORBES ANGUS - - COMMISSIONER

G. R. Hunter,
Secretary.

P. L. Belcourt,
Asst. Secretary.

COUNSEL APPEARING:

F.M. Covert, K.C.	}	Royal Commission on Transportation
G.C. Desmarais, K.C.		
Hugh E. O'Donnell, K.C.	}	Canadian National Railways
H.C. Friel, K.C.		
C.F.H. Carson, K.C.	}	Canadian Pacific Railway
F.C.S. Evans, K.C.		
I.D. Sinclair		
K.D.M. Spence, K.C.		
Wilson E. McLean, K.C.	}	Province of Manitoba
C.D. Shepard		
M.A. MacPherson, K.C.	}	Province of Saskatchewan
J.J. Frawley, K.C.	}	Province of Alberta
C.W. Brazier	}	Province of British Columbia
F.D. Smith, K.C.	}	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade
J. Paul Barry	}	Province of New Brunswick
F.R. Hume	}	Canadian Automotive Trans- portation Association
M.L. Rapoport		
R. Kerr	}	Board of Transport Commissioners
J.O.C. Campbell, K.C.	}	Province of Prince Edward Island

Friday, December 16, 1949.

MORNING SESSION

---The Commission met at 10:30 a.m.

C. E. JEFFERSON, Recalled.

EXAMINATION BY MR CARSON (Cont'd.)

Q. Mr. Jefferson, we were dealing at the adjournment yesterday afternoon with the subject of less than carload competitive rates, and there are some tables on pages 66 to 71 of the Appendix that I think you want to refer to. What do those tables show?

A. The tables at pages 66 to 71 of the Appendix show the loading weights of less than carload way freight cars from Montreal, Toronto, Winnipeg, Regina, Moose Jaw, Saskatoon, Calgary and Vancouver to representative destinations.

Q. Just before you go on, Mr. Jefferson, would you just tell the Commission what the difference is between a way freight car and a merchandise car?

A. Well, a merchandise car is a car loaded to one destination, like Montreal to Toronto; a way freight car is one like from Montreal we will say to Ottawa, and it contains way freight for the intermediate stations between Montreal and Ottawa -- sometimes termed a peddler car.

Q. Now would you go on with your reference to the tables?

A. The weights per car shown in the tables at pages 66 to 71 of the Appendix are the average of the number of cars shown to each destination from Montreal and Toronto which moved on the days in the month of June 1949 as shown.

Q. And those dates, those representative---

A. From Montreal the dates used were the 1st, 10th,

14th, 16th and 20th, 5 days; and the average weights for the way freight cars were from a low of 8,580 pounds to a high of 23,220 pounds. From Toronto the days used were the 3rd, 9th, 15th and 21st of June, 4 days.

Q. How did you get the average weight per car?

A. The average weights per car were arrived at by taking the weight of all the cars shipped, divided by the number of cars. The average loading per car of less than carload way freight is generally considerably less than the average loading of less than carload merchandise cars.

Q. And that is shown by these tables?

A. Yes, sir.

COMMISSIONER INNIS: Q. What would be an absolute minimum? These are averages.

MR CARSON: Q. What would be an absolute minimum? Dr. Innis points out these are averages, Mr. Jefferson.

A. Yes, sir. Well, I could not give you -- you mean the lowest weight. We have the details, but of course to arrive at these averages, some are higher and some are lower than the weights shown.

MR CARSON: I notice on page 68, Dr. Innis, that there is one figure, 346, which shows a very low average weight for that particular car.

COMMISSIONER INNIS: I was wondering if there was any weight which it would pay you not to take.

MR CARSON: Q. Dr. Innis was wondering whether there was any weight which it would pay you not to take?

A. Well, we do not load a way freight car if we can help it to a line which would not have some reasonably satisfactory weight, but when you have way freight cars to points on branch lines, if you only had 100 pounds on the given day that that branch line service operated, you would have the car for the 100 pounds.

COMMISSIONER INNIS: That would explain the 346.

MR CARSON: Q. That would explain this 346. I drew attention to 346 here, you see.

A. From Regina, yes, sir.

MR CARSON: Does that answer your question, Dr. Innis?

COMMISSIONER INNIS: Yes.

MR CARSON: Q. Yes?

A. It may be considered that the earnings received from the less than carload way freight cars is not compensatory, in view of the light loading, but this would be difficult to determine, and it would not be possible to show the earnings per car and per car miles for the way freight cars with any degree of accuracy, for several reasons. For instance, the waverage weights shown are the weights loaded at point of origin to the destination shown and points intermediate thereto.

(Page 13989 follows)

Furthermore, additional freight is loaded and unloaded at the intermediate stations along the line. In addition, as pointed out at page 84 of Part I of the submission, the services these way-freight cars perform is of great importance to the communities they serve, particularly those located in areas where no other form of transportation is available. In many cases, the way-freight car is carried on mixed trains which must of necessity be operated in order to provide a passenger service to the community.

COMMISSIONER ANGUS: I notice the number of the cars is shown on page 66 and in the subsequent pages there are none. Is there some reason for that? On page 66 you have the number of cars - five - five - five and so on - and then on subsequent pages nothing?

A. When we obtained this information, the information on the way-freight cars from Montreal and Toronto, we were furnished not only with the number of cars but also the average weights, but in the case of the way-freight cars from Winnipeg and points in Western Canada, we were merely furnished with the average weights and not the numbers of the cars, but the average weight was determined in the same manner and I could have the number of cars if you want the information.

MR. FRAWLEY: Mr. Carson, before you leave that, would you mind asking Mr. Jefferson the sense in which he says they may be considered as non-compensatory. Mr. Carson

MR. CARSON: Mr. Frawley asked me to bring your attention to that statement you made that it may be considered that the earnings received from the less than car-load way-freight cars is not compensatory in view of the light loading and so on. He wondered in what sense you made

that, Mr. Jefferson?

A. I meant that in the sense that any car containing a low weight of 346 pounds or 2 thousand or 3 thousand pounds, if you obtained all the way bills for those particular merchandise cars and the earnings and found the miles handled, you would undoubtedly find a car mile earning that would be very low.

MR. FRAWLEY: It is low compared to the average?

A. Yes sir.

Q. It is in that sense that you use the expression "noncompensatory"?

A. That is right.

MR. CARSON: Then, Mr. Jefferson, at page 85 of Part I and going on to page 87 the submission of the Canadian Pacific deals with pick-up and delivery rates. Now, what would you like to tell the Commission about those rates that are dealt with at that section of the Submission?

A. Pages 85 to 87 of the Submission explain briefly the application of the pick-up and delivery rates in Eastern Canada and Western Canada. These are competitive rates. Pages 72 to 79 of the Appendix show the less than carload pick-up and delivery rates from and to representative points in Eastern Canada and in Western Canada with the revenue per ton and per ton mile after deducting the cost of the pick-up and delivery service.

Q. Eastern Canada commences at page 71 and I think Western Canada at page 75 of the Appendix?

A. That is right.

Q. Now, what do you wish to say about the earnings on these rates, Mr. Jefferson?

A. Well, the column to use as a fair average, as I explained yesterday, was Column 2. Now, the to mile

earnings in Column 2 run from a low of 3.6¢ per ton mile to 12.3¢ per ton mile. Now, on page 77 in the case of Calgary to both Lethbridge and Medicine Hat, the rate per 100 lbs., less the pick-up and delivery expenses, produces a ton mile earning of 3.6¢ for a haul from Calgary to Lethbridge of 127 miles and to Medicine Hat of 176 miles. Now, the highest Column 2 is shown on page 74 in the case of Windsor Ontario to Chatham, Ontario (of course the distance is much shorter - 48 miles) where the revenue per ton per mile after deducting pick-up and delivery expenses is 12.3¢.

MR. FRAWLEY: What does that mean exactly "after deducting p. & d. expenses"?

MR. CARSON: Mr. Frawley would like to know exactly what that means "after deducting pick-up and delivery expenses"

A. Well, take in the case of Calgary to Lethbridge, the Column 2 rate is 41¢. Now, the pick-up and delivery expense at Calgary is 9¢ per hundred pounds and at Lethbridge it is 9¢ per hundred pounds. Now, you deduct 18 from 41 which leaves you 23¢ from Calgary to Lethbridge or \$4.60 per ton producing a ton mile earning of 3.6¢. In the case of Calgary to Medicine Hat the rate is 48¢, pick-up and delivery expense at Calgary is again 9¢ and at Medicine Hat it is 7¢. You deduct 16 from 48 which leaves you 32¢ or \$6.40 for a ton for a distance of 176 miles producing 3.6¢ per ton mile.

MR. FRAWLEY: It is a disbursement in a sense, isn't it?

A. Yes, it is a disbursement.

MR. CARSON: Now, you have been drawing attention to the range of 3.6 to 12.3 per ton mile?

A. Yes sir. Now, the next point I would like to make is that it is not possible to obtain the car mile earnings

for these movements where you have pick-up and delivery services. While some of these rates may not appear compensatory, the railways, of course, in meeting the competition, want to provide a complete service. I might say, the pick-up and delivery rates in Eastern Canada are now in the process of being increased. When I mention "Eastern Canada" in that sense, I mean in Ontario and Quebec.

MR. FRAWLEY: I notice that in Eastern Canada the rates for Classes 1, 2, 3, and 4, vary but out of Calgary they are all the same. I wonder if Mr. Jefferson would say a word about that?

(Page 13995 follows)

A. Well, from Calgary to Lethbridge, Medicine Hat, and Drumheller, we have a commodity rate for less than carload lots pick-up and delivery traffic.

In the case of Calgary to Lethbridge, it is 41¢ for all classes. But if you want to talk of page 72, Montreal to Sherbrooke, we have a higher rate for column 1 than the other columns, and they grade down, one, two, three and four.

Q. I noticed that.

A. It is just a difference in the method of attempting to meet competition, in one case by an all commodity rate, and in the other case by a graduated scale of class rates.

MR. CARSON: Q. You were going to refer to the bottom of page 86 of the submission.

A At the bottom of page 86 of the submission there is shown the revenue received in less than carload freight, and the pick-up and delivery expense as well as the percentage relationship of the pick-up and delivery expense to the total less than carload revenue, for the years 1940 to 1948.

The pick-up and delivery expense was 7.7% in 1940, and 8.48% in 1948.

Of the total less than carload revenue, these percentages are not considered, to be ^adisproportionate part of the total revenue.

Q. Going back for a moment to Table -- the table in the Appendix at page 72, I notice that the rate from Moantreal to Sherbrooke runs from 51¢ up to 81¢.

A Yes sir.

Q. And that is for a distance of 113 miles, whereas the rate from Calgary to Lethbridge, 127 miles, is 41¢.

MR. FRAWLEY:: What are the two pages?

MR. CARSON: 72 and 77 of the Appendix.

MR. CARSON: Q. Do you see that?

Have you anything to say about that Calgary to Lethbridge rate being so much lower.

A. Well, the only thing that I could say about that is that it was considered to meet competition in Alberta from Calgary to Lethbridge a rate of 41¢ was necessary.

Q. Yes.

A. Whereas, to meet competition from Montreal to Sherbrooke, a higher scale of rates could be obtained.

Q. Yes. And I take it that would be generally true of these differences that one finds in the competitive rates through these tables?

A. Yes sir. We naturally try to get the highest rates we can for the service.

Q. I want to ask you when these pick-up and delivery rates were first established.

A. Pick-up and delivery rates for the movement of less than carload traffic were first established on March 6th, 1933 in the territory Toronto and West to Windsor, Ontario.

Q. Yes.

A. At that time the rates were published on what we termed a competitive less than carload commodity rate basis.

Q. Yes.

A. That is, one rate for all traffic.

Effective on May 28th, 1934, pick-up and delivery service was established at points in Western Canada.

Effective May 1st, 1935, less than carload rates, including pick-up and delivery service, were published for application in the territory Windsor, Ontario, Sault Ste. Marie, Sudbury and East to Megantic for application within a radius of 375 miles, that is, a radius of 375 miles from each shipping point.

Q. Yes.

COMMISSIONER ANGUS: Q. May I interrupt for a moment. In the differences which were mentioned a moment ago between the rates in Eastern Canada and the lower rates in Alberta, the reason being competition, is there some special reason why competition should be much keener in Alberta? Is it perhaps, because it is a commodity rate which is applying to lower classifications than those mentioned in the case of the Eastern places?

A. What is that, please?

Q I ask you why the competition should be so much keener in Alberta? Is it possibly because of the grouping of more classifications than are mentioned in the earlier tables?

A. Well, of course, in Alberta, as you know, there is no regulation of rates.

MR. CARSON: Q That is, of truck rates?

A Of truck rates, and we had to meet the competition which our men felt that they had to contend with, or make a rate on which they considered they could secure some traffic.

In the case of Montreal to Sherbrooke, for example, we adopted in 1937 the principle of taking our class rates -- what we called our town tariff rates, schedule A -- and we applied the four classes by a classification in the tariff -- not the freight classification -- but published a separate classification in the tariff of four groups.

Those four groups were based on a degradation of normal classifications by at least one class, sometimes more, and the column 1, 2, 3, and 4 rates, which are shown in this Exhibit on page 72 of the Appendix.

It was considered that we could secure -- that the railways could secure -- a reasonable amount of the less than carload competitive traffic at the pick-up and delivery

rates on that basis. We might have secured more if we had reduced the rate to a greater extent. But that was as far as we wanted to go.

Q. And these four classes include everything, do they?

A. Pretty much so. There are a few exceptions, but very few.

MR. CARSON: Does that answer your question, Dr. Angus?

COMMISSIONER ANGUS: Yes, thank you.

MR. CARSON: Looking back at this table on page 77, Mr. Frawley wants me to ask you about Calgary to Lethbridge.

MR. FRAWLEY: No, Calgary to Red Deer.

MR. CARSON: Q. I am sorry. I mean Calgary to Red Deer, where the rate shown is 41¢. Do you see that?

A Yes sir.

Q. And Edmonton to Vegreville, it runs from 36¢ up to 58¢.

MR. FRAWLEY: The same mileage.

MR. CARSON: Q Mr. Frawley points out that the mileage is approximately the same, and he seems curious to know about those little differences.

A. To Red Deer?

Q. Yes.

(Page 14003 follows)

A. Calgary to Red Deer is 95 miles, and Edmonton to Vegreville is 96 miles.

Q. Yes?

A. First I would say that the character of the truck competition from Calgary to Red Deer was more severe than from Edmonton to Vegreville. Now, you will notice that from Calgary to Red Deer there is 41 cents for the first three columns and 36 cents for column 4.

Q. Yes?

A. That is an all-commodity rate for the first three columns, but column 4 is a fourth-class rate because it is lower than the all-commodity rate.

Q. That is Calgary to Red Deer?

A. Calgary to Red Deer. Now, from Edmonton to Vegreville on the basis of the current rates it was considered we could obtain a commodity rate or pick-up and delivery rate of 58 cents. In that case column 3 is the class rate and column 4 is the class rate because both were lower than the all-commodity rate considered necessary of 58 cents.

MR. FRAWLEY: Q. In your first two classes your ten mile rate is practically double out of Edmonton?

A. We do not make pick-up and delivery rates on the basis of ton miles. We base them on what we consider we can obtain up to the normal rates as a maximum. If we have to make a lower rate from Calgary to Red Deer for 95 miles that does not mean we are going to make that rate for every point of 95 miles.

Q. That is true. I really should not interrupt, but I was interested in seeing how you evaluate the competition. I would have thought it was just as heavy out of Edmonton to Vegreville. Pretty nearly every Ukrainian has a truck out of Edmonton going down to

Vegreville.

A. I would not think there would be the volume of movement from Edmonton to Vegreville that there would be from Calgary to Red Deer.

Q. Well, probably not.

MR. CARSON: Does that answer your inquiry?

MR. FRAWLEY: Yes, and thank you very much.

MR. CARSON: Q. You were telling the Commission when these rates went into effect in different places. I think you told about those that went into effect on May 1, 1935.

A. Yes, sir. I was explaining there that in May, 1935, we applied the pick-up and delivery rates in the territory Windsor, Sault Ste. Marie, Sudbury and east to Megantic within a radius of 375 miles. Then effective July 14, 1937, the 375 mile-radius was eliminated in connection with pick-up and delivery rates in the territory Windsor, Sault Ste. Marie, Sudbury and east to Megantic, and the rates were applied between all points in that area, regardless of distance.

Q. I do not think you have mentioned the Maritimes yet, have you?

A. No, sir. Effective October 1, 1939, pick-up and delivery service was established at points in the Maritime Provinces.

COMMISSIONER ANGUS: Q. Did the 15 per cent increase apply to those rates?

MR. CARSON: Q. Commissioner Angus wants to know whether the 15 per cent applied to those rates?

A. The 15 per cent applied to all pick-up and delivery rates effective the 15th of September, 1948, except where the pick-up and delivery rates were the normal class rates including pick-up and delivery service.

Q. Now then, Mr. Jefferson, I want to ask you a general question. Why did you provide pick-up and delivery service?

A. The rapid growth of motor truck competition during the period 1930 to 1939 was of great concern to the railways as they were losing more and more of what we call the cream of the traffic to trucks. We found that while we were able to generally retain our carload traffic and some large volume movement of less than carload traffic between specific points by the publication of specific competitive commodity rates, a large amount of general less than carload merchandise traffic was being lost to the motor carriers as they were picking up the goods at the shippers' place of business and delivery was direct to the consignees' warehouse or plant.

Q. Yes?

A. On similar traffic shipped by rail the shipper had to deliver his shipments to the railway's freight shed at his own expense, and the consignees had to take delivery of the goods at the railway's freight shed at destination, but by using highway truck service the expense of delivery to and from the railway freight sheds was eliminated, and both the shippers and the consignees saved this expense. In addition to saving this pick-up and delivery expense, the truck rate was even lower than the rail rate.

Q. Yes?

A. The railways, in order to protect their interests, provided for competitive rates to meet the truck competition including free pick-up and delivery service.

THE CHAIRMAN: Did you say "free"?

MR. CARSON: Free pick-up and delivery service.

COMMISSIONER INNIS: Do I understand that the railway carries the pick-up and delivery charges?

MR. CARSON: Q. Dr. Innis wants to know whether it is a matter of free pick-up and delivery service that the railways provide?

A. Where we have pick-up and delivery rates we absorb the cartage expense between the freight sheds and the place of business of the industry, whether he is a shipper or receiver of the goods.

COMMISSIONER INNIS: Q. So all these tables indicate the extent to which you absorb that?

A. The tables on pages 72 to 77 inclusive, yes, of the appendix, because the examples there shown are all examples where there is pick-up and delivery service at both the point of shipment and the point of destination. At other points you would have shipments moved where you would only have pick-up and delivery service at one end. Take, if you like, from Ottawa to some little place out here, Merrickville. We would have pick-up and delivery service at Ottawa but not at Merrickville, so there we only absorb at one end.

THE CHAIRMAN: Q. In that case the rate would be less to the shipper?

A. The rate would not be any less, no, sir, but we would absorb a smaller amount out of the rate.

Q. Then the plain question is, who pays in the long run for the pick-up and delivery service? Is it the railway or the shipper?

A. Where the rate includes it, the railway pays it, but it is the application of the tariff that tells you. The tariff says whether you do or do not include pick-up and delivery service.

Q. Is the tariff higher where you do include

pick-up and delivery service? All other things being equal, is the tariff higher on account of the pick-up and delivery service?

A. No, sir.

Q. The question is does the railway stand the loss or does the shipper pay for that?

MR. CARSON: I think if we go back to that illustration that was mentioned, Calgary to Lethbridge, that probably points it up, does it not?

THE WITNESS: Calgary to Lethbridge?

MR. CARSON: Q. Where the rate is 41 cents in the four columns. That is the rate that you charge the shipper?

A. That is right.

Q. And you pointed out -- this is on page 77 --

THE CHAIRMAN: I remember it.

MR. CARSON: Q. You pointed out in that case there was pick-up and delivery expense at Calgary of 9 cents and pick-up and delivery expense at Lethbridge of 9 cents, and I suppose the railway had to pay that 9 cents at both ends, did it?

A. That is right, yes, sir.

Q. So the net result was you had 23 cents out of that rate?

A. Yes, sir.

THE CHAIRMAN: Q. Now then, if there was no pick-up and delivery at either end, would the rate to the shipper be 23 cents or 41 cents? If he had to deliver the goods himself and the consignee had to come and fetch them himself, what would the rate be, 23 cents or 41 cents?

A. If there was no pick-up and delivery service at either end the rate would still be 41 cents.

(Page 14008 follows)

Q. Would still be 41?

A. Yes, sir. Now, I do not want to mislead the Commission, because there are so many exceptions, but let me take the area, if you will, in Ontario and Quebec. Now, from Montreal to Toronto the rate includes the pick-up and delivery service, and we absorb the expense out of the rate. Now we will take from Montreal to a small station between Montreal and Smith's Falls; I do not know which one to take, but take any small station where we have not got the P. and D. service. Now, the rate would be the same, but we would only absorb the pick-up and delivery expense at one end, Montreal.

MR CARSON: Q. That is, you would land it at the station, this small station; you would not carry it beyond that?

A. That is right. Now, you might have a shipment in the area between Montreal and Smith's Falls where you do not have a pick-up and delivery service at either the shipping point or the destination, and in that case we would not absorb anything out of the rate.

Q. That is, the shipper would have to bring it to your station of origin, and the consignee would have to pick it up at the destination station?

A. That is right.

COMMISSIONER ANGUS: Q. Is the pick-up and delivery expense money paid out by the railway to a separate contractor, or is it a cost accounting item in the railway itself?

MR CARSON: I am glad you mentioned that, because I think I said a moment ago "paid out", and I want to be sure I am right about it.

Q. Dr. Angus wants to know, and I am not sure when I answered before, whether the pick-up and delivery charge --

take that 9¢ one we were talking about.

A. Calgary, yes, sir.

Q. Is that something the railway pays out to an independent contractor, or do you yourselves operate the pick-up and delivery service and work out the 9¢ as a matter of cost accounting?

A. That all depends upon whom the contract for the pick-up and delivery service is with. At some places the pick-up and delivery service is performed by the Canadian Pacific Express Company, and we pay them for the service.

Q. But they are treated as an independent contractor in that case; yes?

A. At other points we engage the services of an outside or independent trucker.

COMMISSIONER ANGUS: Q. So that the pick-up and delivery expense might conceivably change while the overall rate remained the same?

A. That is right. What we paid for the pick-up and delivery service in 1939 compared with what we pay today is very different. The cost has gone up materially, but so has the volume of traffic, and that is why the percentage relationship as shown on page 86 of the submission between the pick-up and delivery expense in the less than carload revenue have not changed materially -- gone up from 7.70% to 8.48% of the less than carload revenue.

MR CARSON: Q. So the pick-up and delivery expense changes just like any other expense changes in your operations?

A. Yes, sir.

Q. When we are talking about pick-up and delivery rates Mr. Jefferson, they are applied in less than carload business?

A. That is right.

Q. Do you have it in any carload business at all?

A. No, sir, not that I know of; no, sir.

MR CARSON: Does that answer your question, Dr. Angus?

COMMISSIONER ANGUS: Yes.

MR CARSON: Q. Now, I think that is all I wanted to ask you on that subject, Mr. Jefferson. Next I would like to go to the matter of agreed charge tariffs, which are dealt with in Part I of the Canadian Pacific submission commencing at page 87 and running over to the top of page 90. Now, will you explain the matter of agreed charges that are dealt with in that section of the submission?

A. Well, there has been a great deal of discussion before this Commission about agreed charges, and I think that I should first read from the middle of page 87 to the top of page 90:

Agreed Charge Tariffs:

Part V of the Transport Act, 1938, (2 Geo. VI, Cap. 53) provides for the making of "Agreed Charges" whereby a carrier may make such charge or charges for the transport of the goods of any shipper or for the transport of any part of his goods as may be agreed between the carrier and that shipper.

Any Agreed Charge requires the approval of the Board of Transport Commissioners before it may be made effective and may be for such period as the Board thinks fit.

The Board will not approve any Agreed Charge if in its opinion the object to be secured by the making of the agreement can adequately be secured by means of a special or competitive tariff. The object being to hold the traffic to the railway, the publication of ordinary competitive rates often is merely used by the shipper to

bargain for lower rates with competing carriers. The advantage of the Agreed Charge is that it binds the agreeing shipper to ship his traffic or a specified proportion of it, by rail for the term of the agreement.

Particulars of any Agreed Charge must be lodged with the Board within seven days after the date of the agreement and notice of an application to the Board for its approval of the Agreed Charge must be given at least thirty days before the hearing by publication in the Canada Gazette and in such other manner as the Board may direct.

Under the Act, the Board may not approve an Agreed Charge applying between competitive points unless joined in by all competing carriers by rail.

Agreed Charges must be expressed in cents per 100 lbs. or other units as the Board may approve, and be the same for one car as for any greater number of cars.

Any shipper who considers that he will be discriminated against may object to the making of such Agreed Charge, or may apply to the Board to fix a charge for his business, subject to the same terms and conditions as the Agreed Charge complained of.

The Board, in General Order No. 581, dated January 21st, 1939, directed that notice of application, accompanied by copy of the agreement, in addition to being published in the Canada Gazette, should also be sent to various Boards of Trade and Chambers of Commerce throughout Canada, as well as to the Canadian Manufacturers Association, Canadian Industrial Traffic League, Canadian Lumbermen's Association, Transportation Commission of the Maritime Board of Trade, Western Manufacturers Association and any other companies or organizations who may be directly interested.

These regulations unquestionably serve to protect

fully the interests of the shippers and of competing carriers. The fullest publicity is given, well in advance, of any proposed Agreed Charge, and there is every opportunity for all shippers to make sure that no undue preference or unjust discrimination will result.

A shipper with only a small volume of traffic has the opportunity of obtaining the same charge as a shipper with a large volume of the same commodities, either through negotiating an Agreed Charge with the railways or by applying to the Board to have a charge "fixed" for his business.

On any application for an Agreed Charge the Board must have regard to all conditions which appear relevant and in particular to the effect which the Agreed Charge is likely to have, or has had, on the net revenue of the carrier and on the business of any shipper who may object.

Agreed Charge tariffs have been published by the railways and approved by the Board on the following commodities moving to or from specified points, or within specified areas:

Butter

Advertising Matter and Sanitary Supplies, L.C.L.

Coal and Briquettes

Lumber and Forest Products

Petroleum Products

Disinfectants and Sanitary Supplies - L.C.L.

Eggs - L.C.L.

Latex

Salt

The Appendix at p.80 shows particulars of representative movements under Agreed Charge tariffs in both Eastern and Western Canada, namely, length of haul, the Agreed Charge, the average loading per car and average

earnings per car, per car mile and per ton mile. Summary of the average haul and average per car mile revenue for the movements shown in these tables for both Eastern and Western Canada as compared with all traffic for the year 1948, is as follows:

That is at the bottom of page 89 of the submission; I won't read that now, because I am going to comment on it later.

It will be seen that the average per car mile revenue from Agreed Charges is substantially in excess of the average per car mile revenue for all traffic for the year 1948 and they can therefore be taken as compensatory.

COMMISSIONER ANGUS: Q. What happens if a shipper breaks his agreed charge agreement?

MR CARSON: Q. Dr. Angus would like to know what happens if a shipper breaks his agreed charge agreement?

A. Well, there is a penalty clause in the agreed charges, in all agreed charges. I will read the penalty clause from one agreed charge, C.T.C. (AC) No.41. The clause reads:

"Upon default on the part of the shipper the railway shall have the right to recover from the shipper for all merchandise shipped hereunder, the difference between the agreed charge and the charges based on the regular tariffs in effect at the time of shipment of such merchandise, and in addition thereto shall be entitled to liquidated damages at the rate of ten per cent of the agreed charge on all merchandise shipped otherwise than in accordance with the provisions hereof."

(Page 14015 follows)

Q. Thank you. Now then, what further comment do you want to make on the subject of agreed charges, Mr. Jefferson?

A. The agreed charges authorized by Part 5 of the Transport Act of 1938 are to permit the railways to meet unregulated competition by means of a contract between the railways and the interested shippers. It has been stated before this Commission that the agreed charges prefer a large shipper to the detriment of a small shipper. This is not so. The intention of the railways to enter into an agreed charge with any shipper is given the widest publication well in advance. I think this is clearly outlined on the pages of the Submission which I have just read.

Particulars of any agreed charge must be furnished to the Board within 7 days after the date of the agreement. Notice of the application to the Board must be published in the Canada Gazette at least 30 days before the hearing. Notice of such application with copy of the agreement must be sent to the various Boards of Trade and shippers' organizations as well as to industries and other organizations who may be interested throughout Canada. The Board will not approve any agreed charge which can be taken care of by tariff publication. The Board will not approve an agreed charge applying between competitive points unless joined in by all rail carriers. These are all provisions on the Act.

When an agreed charge is established, any shipper, no matter how large or how small, may apply to the railway or the Board to be given the same charge, and I know of no case where such application has been refused where the applicant was prepared to agree to the terms of the contract. Any agreed charge is applicable to one carload or to any number of carloads.

Q. How many agreed charge tariffs are there in Canada, Mr. Jefferson?

A. At the present time there are 14 in Eastern Canada and 9 in Western Canada, a total of 23.

Q. Do any of these agreed charge tariffs cover extensive movements?

A. Yes sir, 6 of the agreed charges in the east apply to petroleum products from the refineries, marine terminals, or storage tanks. Petroleum products also move from Calgary and Edmonton and points in the Lloydminster area to points in Alberta and Saskatchewan at agreed charges. Agreed charges are in effect on a number of other commodities in both Eastern and Western Canada as listed on page 89 of the Submission.

Now, a statement showing particulars of the agreed charge tariffs in both Eastern and Western Canada was furnished to the Traffic Advisor of the Board, and is contained on pages 11306 to 11310 of Volume 59 of the Transcript.

MR. FRAWLEY: Is this the complete list of agreed charges that you are now referring to?

A. Yes sir.

Q. It does not contain as much information, I suppose, as is on page 80 of the Appendix?

MR. CARSON: Mr. Frawley is asking whether what was furnished to the Traffic Advisor of the Commission is as complete as is shown on page 80 of our Appendix?

A. Well, no, the statement that was furnished the Board's Traffic Advisor was merely a list of the agreed charges, the commodities on which they applied and the territorial application.

MR. FRAWLEY: Mr. Jefferson, you have not got the agreed charge on petroleum products out of Sarnia. There is one there, is there not?

A. Yes sir. What do you mean we have not got it?

Q. On page 80, and would it be a lot of trouble if you just added that?

A. You mean we did not have any examples?

Q. No, you did not include it from Sarnia. If you would give me one out of Sarnia for the same distance as the two you have given out of Calgary. You have given one for 62 miles to Canmore and one for 127 miles to Lethbridge. If it would not be too much trouble, would you give me the agreed charge rate out of Sarnia for either one of those mileages?

MR. EVANS: Mr. Frawley, I am told that we supplied that information to Mr. MacPherson out West. I do not know whether it got on the record or not.

MR. FRAWLEY: In these proceedings?

MR. EVANS: Yes.

MR. FRAWLEY: Well, if you would give the one out of Port Credit. There is no purpose in asking for Sarnia - If you would look at page 80, you do show one for the British American out of Port Credit?

A. Maybe I can answer your question this way. We show an agreed charge rate on petroleum products from Calgary to Canmore, 62 miles - 15¢. Now, the agreed charge in the upper part of page 80 from Port Credit to Kitchener, 67 miles, is 13¢. Now, it would be the same for 67 miles out of Sarnia as out of Port Credit.

Q. Could you tell me what it would be out of Port Credit for 127 miles? You need not stop now; that can be put in any time.

A. We have it right here.

MR. O'DONNELL: It is covered by Agreed Charge No. 11.

THE WITNESS: 23¢.

MR. FRAWLEY: Fine, thank you. There is one other thing I would like you to do if you could. Would you give

us what the rate would be in the absence of the agreed charge just for the instances on page 80 - nothing more than that, and that can be done, as far as I am concerned, any time when we resume at the end of January, Mr. Carson.

THE WITNESS: Yes, I can do that.

MR. CARSON: You had referred to what was handed to the Traffic Advisor of the Commission. Is there anything more you want to say about that or may I go on to the next question?

A. I think we can go on for the moment.

Q. Now, in the Manitoba Submission, Chapter IX, page 13, it is stated that "This Commission should recommend that agreed charges should be subject to the criteria suggested by Mr. Walker as applicable to competitive rates, namely, they should be no lower than is necessary to retain the traffic and no lower than a level which will return to the railway something more than the out-of-pocket cost of the service". What have you to say about that, Mr. Jefferson?

(Page 14019 follows)

A. In making this recommendation, the Manitoba witness apparently had no information, nor was he familiar with the earnings received by the railways under the agreed charges.

Q. Yes.

A. Page 80 of the Appendix to Part 1 outlines the earnings for representative movements at agreed charges in both Eastern and Western Canada, the earnings, both per car mile and per ton mile, are very much in excess of the average earnings for all traffic, with the exception of the ton mile earnings on salt from Windsor to Shawinigan Falls, but on which car mile earnings are in excess of the average for all traffic.

Page 80 of the Appendix shows that on salt from Windsor to Shawinigan Falls, for a haul of 672 miles, the rate is \$4.72 a net ton. The ton mile earnings are 7/10 of a cent; and while the car mile earnings for the average loading of 105,000 pounds per car is 36.9¢, the railways are receiving fully remunerative revenue on traffic which they are handling under agreed charges.

THE CHAIRMAN: Q In other words, do you apply to the making of agreed charges the same rule that you apply to the fixing of competitive rates, that is, that they must be compensatory?

A. Do we follow the same method?

MR. CARSON: Q. The Chairman wants to know if you follow the same rule in fixing agreed charges that you do in the case of competitive rates, that is, that it must be reasonably compensatory?

A. We follow the same rules that I mentioned, yes, in determining whether a rate was compensatory, yes sir. I mentioned them yesterday.

COMMISSIONER ANGUS: Q. Might I ask Mr. Jefferson why

there is such a high turnover in agreed charges?

MR. CARSON: Q. Commissioner Angus wants to know why there is such a high turnover in agreed charges?

A. You mean, in the number?

COMMISSIONER INNIS: There are 42 altogether, and 23 are now in the tariff. Is that right?

MR. CARSON: Q. You have 42 altogether, and 23 are now in operation?

A. Oh, well, that is, because, like tariffs, they are reissued from time to time. We said here that we now have 23 agreed charges.

COMMISSIONER INNIS: Q Yes.

A. But there have been 42 issued. Now, some of them have been re-issued, perhaps, three or four times since the agreement was made.

Q. Are there any which have dropped out?

A. I mentioned one which I can remember, the agreed charge on petroleum products out of Calgary. That was an agreement that was made a little differently from the others, in that it had to have a new agreement every year.

While now we adopt the policy of making agreed charges for a year with a continuing clause carrying them on from year to year, subject to termination by either party after one year, on a certain notice.

MR. CARSON: Q That is like an agreement to the effect that it is for a year, unless it is terminated, and it continues on, is that it?

A That is right. But the reason for the turnover is that, like tariffs, you are always re-issuing them or publishing new tariffs, and so on.

MR. CARSON: Does that answer your question, D.
Innis?

COMMISSIONER INNIS: I think so. Thank you.

MR. FRAWLEY: Your lordship, you asked the witness if the principle which he applied in making agreed charges was the principle which he mentioned yesterday.

Mr. Jefferson himself says at the top of page 90:

"It will be seen that the average per car mile revenue from agreed charges is substantially in excess of the average per car mile revenue for all traffic for 1948, and they can therefore be taken as compensatory."

Therefore, I take it Mr. Jefferson's conception of what "compensatory" is, ^{that} ~~it~~ means that the per car mile revenue standards must be in excess over per car mile revenue.

THE CHAIRMAN: Is that how he proves the application of the rule? I asked him if he followed the same rule in fixing an agreed charge as he followed in fixing a competitive rate. You know what that rule was. Mr. Walker gave it to us .

MR. FRAWLEY: I did not know that Mr. Jefferson had said he had been following Mr. Walker's rule.

THE CHAIRMAN: But that is what he just told me. However you can ask him yourself.

MR. FRAWLEY: Q. Mr. Jefferson, when fixing a competitive rate, do you follow the rule that it must return out-of-pocket expenses plus something more, and that it must not be lower than is necessary to obtain the traffic?

A. Yes sir.

Q You do?

A. I would not knowingly make a rate which did not pay us our out-of-pocket costs plus something to meet other costs; and if I was satisfied that it was less than out-of-pocket costs, I would forego the traffic.

Q. I thought you did that by looking at last year's average per car mile revenue, or per ton mile revenue, to see how the rate you were asked to give compared with that.

A. That is one of the yard sticks.

Q. Oh, it is one of the yard sticks, is it? Then what else do you do?

A. In making competitive rates or agreed charges, we have got to determine what rate is necessary to meet the competition.

Q. Yes.

A. Then we have to find out whether we consider ^{that} the revenue that we obtain from that rate is compensatory.

Q. Yes, yes?

A. Now, as I said yesterday, you have got to take into consideration the loading per car, your car mile earnings, and your ton mile earnings, and weigh all these things, and then decide whether you think it is good judgment to make the rate necessary to obtain the traffic.

MR. CARSON: Q. Does that apply both in the case of competitive rates and agreed charges?

A. Yes sir.

MR. FRAWLEY: Q. Just dealing with the question of making certain that it returns your out-of-pocket expenses, do you endeavour to ascertain the out-of-pocket expenses, for instance, in moving petroleum from Calgary to Lethbridge? What yardstick do you use there?

A. We do not endeavour to determine what the out-of-pocket costs are for moving traffic from Calgary to Lethbridge, no. But if the earnings we would receive would result in the earnings being much higher than the average, then we would not think that we would make any mistake to meet competition which we have to contend with.

Q. I think that is as far as I need to pursue it. That

is my point. It is done by measuring -- and I am not criticizing you at the moment -- but it is done by measuring it against last year's average and the other indices, which practice is, as I understood Mr. Walker to say, that a competitive rate must always return out-of-pocket expenses plus something more, which he did not say, towards the overhead.

But that might not be practicable; and here we have the gentleman who actually makes the rate, and he now tells us that he would find it difficult, if not impossible almost, to know what his out-of-pocket expenses were in moving petroleum products from Calgary to Lethbridge.

THE CHAIRMAN: I suppose that would apply to any rate, whether it would be competitive, normal, or anything else.

RM. FRAWLEY: That is right.

MR. EVANS: This practice, my lord, is well known in the United States. Moreover Mr. Frawley's own brief contains in the schedule the tests which are applied by the Interstate Commerce Commission as to whether these rates can be considered absolutely compensatory; and they use that same practice of looking at the car mile and the ton mile earnings.

COMMISSIONER ANGUS: What evidence does the Board require? I see under Section 35 subsection 13 of the Transport Act that it shall have regard to the net revenue of the carrier, to the effect of the net revenue of the carrier.

MR. CARSON: I believe Mr. Evans is quite familiar with the practice before the Board. Perhaps he might answer that question.

MR. EVANS: I am sorry, but what was the question.

COMMISSIONER ANGUS: Section 35 subsection 13 of the

Transport Act says that the Board, on any application, shall have regard to the net revenue of the carrier. Is there some routine practice as to the type of evidence that the Board requires, or that, at any rate, the Board receives?

MR. O'DONNELL: My lord, I think that I might possibly answer that question.

In the McColl Frontenac Oil Company case, which had to do with agreed charges between Fort William and Regina, very detailed information was put before the Board through the traffic officers of the railways, as to what the financial aspects of the agreed charge would be, and what the net revenue, or what betterment of the net revenue would be. Those matters were gone into in some detail, and it was shown that unless the agreed charges were made, the net revenue position of the carrier would not be as good as it would be otherwise.

I remember that various types of crude oil, for instance, in that case, the different gravities were considered and the revenue which would result from the carrying of crude oil of one gravity as compared to the carrying of crude oil of another gravity was gone into, and the outbound and the inbound results were gone into in very considerable detail.

The exhibits demonstrated that the position of the carrier would be bettered on the traffic contemplated by so many dollars, a definite number of dollars.

COMMISSIONER ANGUS: Could you possibly satisfy this condition of the Act if the rate was not compensatory?

MR. O'DONNELL: I do not think so.

MR. EVANS: You could not possibly.

MR. O'DONNELL: The Board would not approve it. There is no question about that.

MR. EVANS: Quite obviously one of the things that the Board is accustomed to look at is the car mile earnings. And if the Board were satisfied that the railway would loose the traffic if it did not establish the rate, they would be satisfied with evidence of that nature, I mean of the rule of thumb approach, unless it were challenged, in which event a special study would have to be made.

MR. FRAWLEY: In answer to what came from Commissioner Angus, I would like to say that I believe the McColl Frontenac case was one which was protested vigorously. It was challenged by the Imperial Oil Company and some associate companies.

THE CHAIRMNA: On what ground?

MR. FRAWLEY: On the ground that it should not have been made; on the ground, I suppose, that it was unfair competition on several grounds.

THE CHAIRMAN: Did any of those grounds deal with its effect?

MR. FRAWLEY: Having been challenged, this McColl Frontenac case is one in which some detailed information was furnished with regard to net revenue because Imperial Oil and associated companies were there. But I submit that in the normal case, where there is no objection, what evidence is there, and how can the Board be satisfied that it will better the net revenue of the carrier?

Mr. Evans has explained . that it is just a rule of thumb, in looking at last year's revenue.

MR. O'DONNELL: The railway must satisfy the Board in each case. And in the McColl case I am satisfied that the Board would not have approved the agreed charge unless the revenue position of the carrier would have been bettered.

In Exhibit 5, the Commission will see that it contains

under the heading:

"Effect Upon Net Revenue of the Carrier"

the following; I do not know if I should read it; but it says:

"Witness Knowles for the Applicants submitted Exhibits 4 and 5 showing that a substantial increase in net revenue would accrue to the railways by the operation of the Agreement compared with the former methods of distribution, which included the haulage inbound on crude oil and the movement of refined products by truck and rail. Subsequently, when it was alleged by objectors to the Agreement that a lower gravity crude shipped via the Lakehead would be the only supply available to the Shipper, Exhibit No.15, compiled in a manner similar to the previously mentioned exhibits and including refined black products, showed that substantial improvement in net revenue would still be the result.

These exhibits have been carefully analysed by the Board's Bureau of Transportation Economics and the premises have been varified. I find, therefore, that there will be no adverse effect upon the carriers' net revenue -- in fact it can reasonably be assumed the net revenue will be materially improved."

And those exhibits four, five and fifteen were especially put in to show the result that the carriers position would be better by so many dollars, if the agreed charge were approved.

MR. FRAWLEY: That evidence was offered after objection was made to the approval of the agreement.

MR. O'DONNELL: The Board will not allow an agreed charge to be approved unless the provisions of the Act are satisfied.

MR. FRAWLEY: Those exhibits by Mr. Knowles were worked out, and the studies were made in that detail after the approval of the agreed charge had been challenged by Imperial Oil.

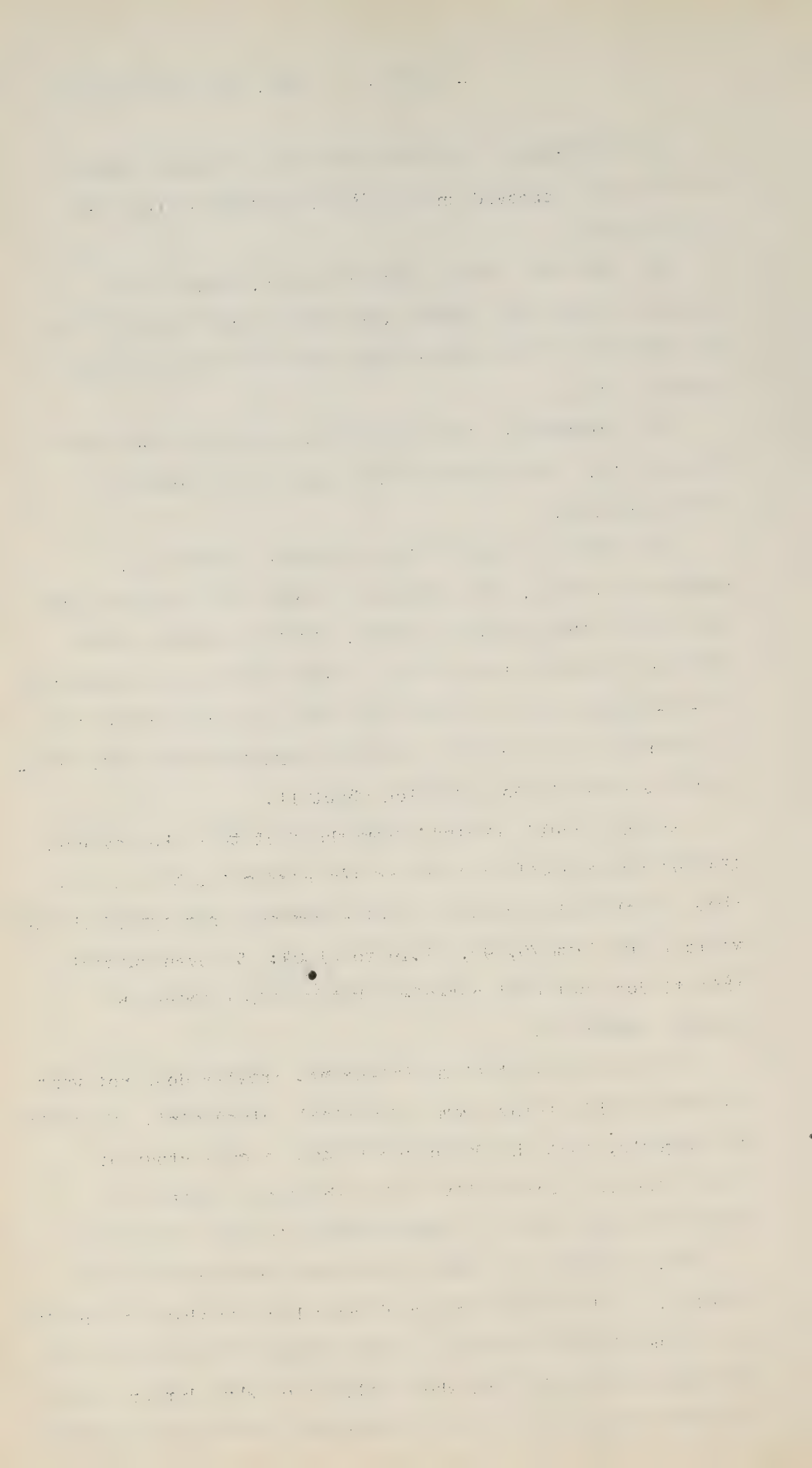
MR. O'DONNELL: The assertion was made and the Board accepted it. The statements were made in voluminous correspondence.

MR. EVANS: I would like to ask Mr. Frawley if, looking at page 8, and seeing as a whole there the car mile earnings on these agreed charges, which are there given, whether he thinks there is not a prima facie case of meeting out-of-pocket costs, because it seems to me that there is a tendency here to create a lot of confusion about this when, in fact, there is no confusion about it.

Any one could conclude from the fact that the revenue, the average car mile revenue on the system is, let us say, 34¢, and that the average car mile revenue from agreed charges would range from 70, 96, \$1.19 to \$1.04; ^{costs} to even suggest that it does not meet out-of-pocket/would, I think, be almost laughed at.

It seems to me that my friend Mr. Frawley does not want to look at this thing from a practical standpoint. He wants, or suggests, that the Board should make a case study of every case of a competitive rate, while as a matter of practical operation it is unnecessary, in our contention.

MR. FRAWLEY: It seems strange how these things can develop. I challenged agreed charges because they are unfair to the small business man. I only raised the question this morning dealing with the whole subject of what happens when a competitive rate is made and when an agreed charge is made



and the discussion we had arose because it was thought we should know from Mr. Jefferson what rules he followed in fixing an individual rate. But I think we know now.

I am not suggesting for a moment -- I can read English as well as my friend -- I am not concerned whether these are proper revenue producers to the Canadian Pacific or not. All I am concerned with is whether the Board of Transport Commissioners will satisfy itself, in each case, that the net revenue will be better.

I question that because of the difficulty surrounding the task. Perhaps Parliament should not have put that task upon them.

I say that agreed charges should come out because they are unfair to the small business man.

MR. O'DONNELL: But you have proved that a number of small business men use them.

MR. FRAWLEY: That is just a broad statement.

THE CHAIRMAN: I am not saying anything about it at all, but it may be, as you say, that the Act, in its present form, may contain some unfairness towards the small shipper, which you say it does.

MR. FRAWLEY: I say that it does.

THE CHAIRMAN: Therefore you submit that all these provisions regarding agreed charges should be taken out?

MR. FRAWLEY: Yes, Mr. Chairman.

THE CHAIRMAN: Do you think it would be possible to amend them so as to protect the small shipper?

MR. FRAWLEY: Perhaps some method could be worked out.

THE CHAIRMAN: You are speaking on behalf of the small business man, the small shipper?

MR. FRAWLEY: That is right. The Imperial Oil Company, a very large concern, thought it was a bad thing.

On the other hand, the Lion Oil Company, a much smaller concern, does not.

THE CHAIRMAN: Could you draft some amendment, Mr. Frawley, to meet the case of the small shipper?

MR. FRAWLEY: I thought I would try with a very short one, calling for its repeal.

THE CHAIRMAN: But anybody could do that.

MR. FRAWLEY: I shall see what can be done to make it fairer. For example, the Lion Oil Company cannot meet the conditions. Mr. Jefferson makes it sound very simple, but the smaller business man can only get it if he meets the condition.

THE CHAIRMAN: We need not pursue the argument any further/^{at}this time. And if you would be so kind as to draft your proposal, then at the proper time we will argue its merits.

Very well. We shall take a few minutes recess now.

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Page 14041 follows)

---Upon resuming after recess.

MR. EVANS: I am quite sure your lordship is tired of hearing from me on this subject, but I do want to put an end to it if I can. My friend, Mr. Frawley, made certain suggestions, and here is a short paragraph from the appendix to his own brief which also appears at page 11863 of the transcript. The heading of the paragraph is, "Ton-mile, car-mile and per-car revenues." The paragraph reads:

"The difficulty, expense and delay involved in elaborate cost studies means that the great majority of fourth-section applications must be disposed of without the aid of such studies. In most fourth-section cases judgment as to the compensatory character of the proposed reduced rates is reached from a consideration of ton-mile, car-mile, and per-car revenues. Statistics of this nature appear

through nearly all of the fourth-section reports." There follow a number of pages giving the decisions of the Commission in various cases.

THE CHAIRMAN: Of the Board?

MR. EVANS: Of the Interstate Commerce Commission, where this very question is up under fourth-section applications. They have approved during the thirties for fourth-section relief car-mile earnings as low as 10 and 12 cents. I am not going to repeat all this to the Commission, but they will be found at pages 11864, 11865 and 11866 of Mr. Frawley's brief and in these pages of the transcript.

MR. FRAWLEY: I do not quite know why my friend should call that to the attention of the Commission. All I have said is that it would appear that the Board on applications to approve fixed charges which are not

objected to simply looks at the net revenue, and I am not even taking that from my friend. He says they look at the net revenue by applying certain rules. I am not objecting to that. I am simply pointing out that is all they do.

MR. O'DONNELL: You don't know what they do nor do we. If we want to go into that we can ask the Board's traffic officer and the Bureau of Economics. It is not fair to say that they do not do anything else.

MR. FRAWLEY: When my friend pointed to the elaborate studies that were made in the McColl-Frontenac case I simply said that they were made after there had been objection.

MR. O'DONNELL: I don't know but what they do the same thing even if there is no objection. The Board has to satisfy themselves.

THE CHAIRMAN: They have a certain duty to perform under subsection 13-A of section 35. Have you any means of knowing whether they performed that duty properly?

MR. FRAWLEY: No. All I said was it was apparent in the McColl-Frontenac case these elaborate exhibits of Mr. Knowles were put in after objection. I seek to say no more than that.

MR. EVANS: What is the point?

MR. O'DONNELL: What is the point? The Board's duty is there at all times, and they have to satisfy that duty.

COMMISSIONER INNIS: May I ask Mr. Jefferson why there is such a limited number of commodities on which these agreements have been worked out?

MR. CARSON: Q. Dr. Innis would like to know why there is such a limited number of commodities in respect of which these agreements have been worked out?

A. Of course competitive rates and agreed charges are for the same purpose, to meet competition. Under the agreed charge Act we are not supposed to make agreed charges where the movement of the traffic can be taken care of by the publication of a commodity tariff. It is in instances where we feel that we cannot control the securing of the business without an agreed charge. What I mean by that is that there may be two shippers of the same commodity from point A to point B. One will agree to give us the business, all the business by an agreed charge. The other shipper will not agree to give all the business to the railways. If you put the necessary rate into a commodity tariff the shipper who would give you all the business might continue to do so, but the shipper who says he will not give all the business would move such business as he wanted to on the competitive rate and ship the rest of it by some other mode of transportation.

COMMISSIONER INNIS: Q. It is very striking that you have only three or four commodities altogether, and by far the greater proportion of those are petroleum products. Is there something peculiar to petroleum products?

A. No, sir, petroleum products come within the explanation that I gave. There are a number of shippers of petroleum products, some of which would abide by the agreement and some of which would not. We do not want to give the shippers who would not abide by the agreement agreed charge rates which they could obtain if they were in a commodity tariff. The only way we could control the situation was through an agreed charge. Take the agreed charge on petroleum products out of Calgary. The two larger refineries in Calgary are British American Oil and Imperial Oil. Imperial Oil is a signatory to the agreed

charge. British American Oil are not because they do not wish to agree to the terms of the agreed charge. Therefore when they ship by rail they pay the normal rates and are free to ship the balance of their traffic by truck.

MR. CARSON: Q. Just along that line, I was going to ask you if you can tell the Commission how many signatories there are today to agreed charge agreements?

A. At the present time we have 23 agreed charges in effect, but the number of signatories to the agreed charges is 118. Some of them just have one signatory, but the lumber one, which I am going to speak about later, has 47 signatories to that one agreed charge.

COMMISSIONER ANGUS: Q. Is there any real competition between Alix, Alberta, and Vancouver by truck for butter? It seems a tremendously long haul, 782 miles. There is an agreed charge on butter which was the forerunner of the western Canadian charges.

A. The agreed charge on butter -- I suppose you have in mind agreed charge No. 9 on butter from Alix, Alberta, to Vancouver.

MR. CARSON: The one that is shown on page 80.

COMMISSIONER ANGUS: Yes.

THE WITNESS: That agreed charge, as I recall it, was not made because of truck competition from Alix to Vancouver. It was made because of the possibility of trucking from Alix to Edmonton and shipping --

THE CHAIRMAN: Q. The possibility of what?

A. Of shipping by truck from Alix, Alberta, to Edmonton, and by rail right from Edmonton to Vancouver, and that made a lower rate than the rail rate from Alix to Vancouver. Therefore we made an agreed charge on the basis of the truck cost to Edmonton and the rail cost beyond to secure the entire movement by rail from Alix

Please make the following changes in Transcript of Evidence

<u>Vol.</u>	<u>Page</u>	<u>Line</u>	<u>Change</u>
48	9106	14	Insert "and" after "Economucs"
	9108	17	Insert "transportation" after "high-way"
	9119	28	Delete the words "so much" after the word "fluctuated"
	9121	19	"exclusive" should be "inclusive"
	9125	8	"Personal" should be "pertinent"
	9216	7	"regulated" should be "unregulated"
	9224	8 & 9	"out-of-pocket" should be "traffic"
	9291	23	Should read "not as competitors"
49	9302	22	"number" should be "Board"
	9341	2	"advances" should be "provinces"
	9393	26	"portion" in both cases should be "operation"
			Delete "4"
51	9816	4	"affected" should be "a factor"
	9828	7	"considerable" should be "struggling"
	9829	16	"and Palo" should be "Palo and Chaplin"
		21	"three" should be "four"
		31	First word should be "order"
	9833	29	
		2nd from last	"talking" should be "thinking"
	9847	17	Delete "which"
		18	"compel" should be "completion"
	9849	27 to 29	Enclose in quotation marks "Hence the.....settlement"
	9851	29	Insert "a great deal of" between "like" and "railway"
		31	Delete "figure"
		last	"characteristics" should be "characteristic"
	9852	20	Close quote after "lines"
		22 to 24	Enclose in quotation marks "made the.. country"
	9853	8	"19,210" in 1931 and 18,310 in 1948" should be "921,785 in 1931 to 832,688 in 1946"
	9854	3	"economical" should be "economic"
		5	"reduction" should be "conservation"
		9	"acreage" should be "in agriculture"
		last	"23" should be "26"; "as against" should be "for"
	9860	17	Insert "... between "agriculture" and "The Cities"
		18	"service" should be "serve"
		22	Insert "... between "populations" and "The wholesale"
	9861	12	"near" should be "bear"
	9863	17	"provinces" should be "province"
	9869	14	"Table IV" should be "Table X"
		18	"fuel" should be "full"
	9870	13	"rates" should be "price"
		26	"1936" should be "1937"
		29	"1937" should be "1936"
		4th from last	"with" should be "bringing"
		last	"1940 to 1942" should be "1940 and 1942"
	9918	27	Delete "The Co-operative Growers or rather"
	9919	11	Second word should be "herds"
		21	"surpasse" should read "surpassed"
	9930	1	Delete "on"
		2	Should read "printed brief, sub-section 7, deals with"

Vol.	Page	Line	Change
51	9930	4	Should read "to 52 I believe you are going to summarize in the same way"
	9933	1	"XXVII" should be "XXVIII"
	9936	19	"or" should be "to"
	9939	6th from last	"20.3 points" should be "21.2 points"
		4th from last	"8.3 points" should be "4.3"points"
	9941	4 & 5	Should read "A. Well, I am not sure we would and I will put it this way".. "wheat production" should be "western farm prices"
		10	"fixed rated" should be "fixed low rates"
		18 & 19	"keeping" should be "reducing"
		2nd from last	"at 75 per cent" should be by 75 per cent"
		last	Delete "who"
	9942	26	"the last two" should be "seventeen"
		11	"field" should be "yield"
52	9948	23	"unfavourably " should be "unfavourable"
	9980	13	"ploicy" should be "policy"
	9996	24	
		10th to 8th from last	This sentence should read "We have in mind, sir, I think, to develop full use of the Hudson Bay Route would require strong support from a federal agency such as the National Harbours Board or the Department of Trade and Commerce".
	10000	4th from last	"board" should be "Transport Board"
	10023	1	First line of footnote "(194)" should read "(1914)"
	10037	7th from last	should read "it is understood"
	10045	12	Should read "THE WITNESS: That would probably be an improvement,"
	10048	7	"ltimately" should be "Ultimately".
		16	Should read "be <u>proper</u> at....."
	10050	4th from last	"A. No." should be "A. Yes ".
	10056	2nd and 3rd from last	"(No answer)" should be "A. Yes".
	10058	last	"to" should be "so that"
	10059	1	"economical" should be "uneconomic"
		4	"economical" should be "economic"
	10061	9 & 10	"Wreckless driging" should be "reckless driving"
	10062	8	"reight" should read "freight"
	10063	18	"a <u>must</u> " should be "imperative"
	10070	9th from last	"section 11" should be "sub-section 11" (eleven)
	10079	10th & 9th from last	"rate reductions" should be "transportation operations"
	10089	10 from last	After "review" add "of the other subsidy"
	10096	10	After "1948" add "for Saskatchewan"
	10099		Answer to last question should read: A. It probably has not any more than the amount of the improvements. In terms of what the economist regards as an economic rent, there probably has not been any increase in value or in economic rent; it does not exist over most of western Canada."

Vol.	Page	Line	Change
53	10101	16	"thresher" should be "truck"
	10104	6th from last	"this" should be "each"
	10105	3rd from last	"order" should be "year"
	10112	6	After "which"(and completing the sentence)should read "technological changes in the western economy were so great as almost to vitiate any comparison that might be made."
		11	"they"should read "he"
	10114	4	"I better" should read "I had better"
		10	"the other part" should be " a larger part"
	10120	5th from last	"new freight establishments" should be "free freight arrangements"
		last	"for" should be "from"; "dis" should be "distances"
	10123	19	"ome" should be "more"
	10126	3	"instead of should be "with"
	10127	6	"prospect" should be "fact"
		9	"firms" should be "areas"
	10129	10	"the 31% case" should be "the 21% Case"
	10132	13	(latter part) should read "Mr. Carson: now that my friend"
	10136	5	"had a" should be "had not a"
	10138	24	"verify" should be "verify"
	10141	6	"frowns" should read "grounds"
	10146	5	"economy" should be "inspection"; "these" should be "accounting"
	10160	17	"while" should be "why"
	10172	8th from last	"shippers" should be "ships"
		7th from last	"an American" should be "a Canadian"
	10173	15	"travelling" should be "conditions prevailing"
	10174	2nd from last	"receipts" should be "projects"
	10175	20	"Edmonton" should be "Regina"
	10176	6	"area" should be "year"
		10th from last	"it were" should be "we are"
	10178	7th from last	"within surplus" should be "out of surplus"
	10200	4th from last	Delete "\$2"
	10222	18	"I quite agree" should be "I <u>cannot</u> agree"
	10237	14	"these kind" should be "that kind"
	10237	14	"ton" should be "town"
	10238	14	"we had" should be "we have had"
	10245	7th from last	"it tends" should read "he tends"
	10258	17	"commensurate situation" should be "similar breaking point"
	10269	3rd & 4th from last	"than" should be deleted.
	10271	last	"industry or the interested" should be "the industry or interest affected"
	10281	11	"disparity" should be "disability"
	10283	9	"an accounting period" should be "an accounting opinion"
	10287	6	

<u>Vol.</u>	<u>Page</u>	<u>Line</u>	<u>Change</u>
63	13307	14	"lack of deficiency" should be "lack or deficiency".
	13312	12	"There are a few major centres" should be "There are few major centres".
		16	"A few major centres" should be "Few major centres".
		22	The word "routes" should be "rates".
		26	"interchange of single line" should be "interchange with single line".
	13313	13	"Canadian National" should be "Canadian Northern".
		22	Delete the word "little".
	13314	second line from bottom	The word "nothing" should be "something".
	13319	12	"matter by legislation" should be "matter under the legislation".
		13	Insert the word "here" after the word "and", so that it should read "and here it is complaints..."

1. The first part of the report

11

2. The second part of the report
3. The third part of the report
4. The fourth part of the report
5. The fifth part of the report
6. The sixth part of the report
7. The seventh part of the report
8. The eighth part of the report
9. The ninth part of the report
10. The tenth part of the report

11. The eleventh part of the report

12

12. The twelfth part of the report
13. The thirteenth part of the report
14. The fourteenth part of the report
15. The fifteenth part of the report
16. The sixteenth part of the report
17. The seventeenth part of the report
18. The eighteenth part of the report
19. The nineteenth part of the report
20. The twentieth part of the report

to Vancouver.

MR. FRAWLEY: Q. Mr. Jefferson, just following up that point that Dr. Angus raised while it is fresh in our minds, you say there was no question of truck competition from Alix to Vancouver?

A. That is my recollection.

Q. Do you not know that Dench was negotiating with Johnson to move that butter from Alix to Vancouver?

A. No, sir.

Q. I suppose we will have to go into the whole thing. Respectfully, sir, I understand there was a lot of discussion between Dench and the Alix people about moving it to Vancouver, and then he met the difficulty of the national park.

A. Not to my knowledge.

MR. EVANS: My friend can go into all these questions before the Board of Transport Commissioners. I cannot understand why my friend wants to obstruct these proceedings with whether or not a particular truck movement exists or was negotiated for a part of the distance or the whole distance. The Board had to be satisfied, and my friend can be heard.

MR. FRAWLEY: I certainly do not like the word "obstruct". Dr. Angus asked Mr. Jefferson a question, and I know if it had been present in Mr. Jefferson's mind he certainly would have told the Commission. I thought I would recall to his mind the fact that Dench and the Alix Creamery were negotiating about taking that butter by truck. That is all I want to say. I am not talking about my going to the Board of Transport Commissioners. You see, we have had that so often. What would Frawley be allowed to say before the Board of Transport Commissioners? That is something that must be kept in mind.

My friends invite me to go there. It is something like suggesting that we can go to the conciliation boards and be told we are not to be heard.

MR. EVANS: That is nonsense.

MR. FRAWLEY: Why would Frawley, representing the Government of Alberta, be allowed to say a single word if he went there to talk about the butter rate from Alix to Vancouver? These things must be kept in mind when my friends keep taunting me and taunting me with an invitation to go to the Board. I have to have a status to go to the Board, and that is why I am before this Commission where I have a status.

MR. O'DONNELL: You have no status here.

MR. EVANS: May I suggest that my friend read the decision of the Board in the Inland Steamship case to which I made reference some time ago.

THE CHAIRMAN: That decision says he can go to the Board?

MR. EVANS: It shows how widely the Board construes the words "parties interested", and they will hear almost anybody.

MR. O'DONNELL: Even Frawley.

MR. FRAWLEY: I think they would draw the line at hearing somebody who said he was there representing the Government of Alberta. If the Inland Steamship Company case says that, we will frame a case on that and go to the Board.

MR. CARSON: I cannot believe that the Board would shut off Mr. Frawley.

MR. FRAWLEY: I believe they would. This is important because we hear it so often, go to the Board.

MR. CARSON: Q. Mr. Jefferson, I think you were going to say something about agreed charge tariff C.T.C.

No. 15?

A. Yes, sir. Agreed charge tariff C.T.C. A/C No.15 applies on lumber and forest products in the Prairie Provinces of Alberta, Saskatchewan and Manitoba. This agreed charge on lumber in the west was first published effective October 1, 1940. There were 30 lumber firms who signed the original agreement, large and small. Since October 1, 1940, 49 additional firms have been added as participants at their own request, making a total of 79.

(Page 14050 follows)

32 firms have terminated their participation in this agreed charge by written notice, and a number of others changed their participation from one shipping point to another. At present there are 47 firms who are participants or signatories in agreed charge No.15. This agreed charge has been supplemented 58 times. Some of the firms who are parties to this agreed charge on lumber in the west are quite large and others very small. In fact, a number of them are individual operators, but, regardless of this, each and every one of them received the same rates. I know of no case where a lumber shipper who made application to the railways for participation in the agreed charge was denied such participation so long as he was prepared to abide by the terms of same.

The figures I have just mention^{ed} show that the lumber shippers have been coming in and going out of this agreed charge at their own discretion.

I think the experience of this agreed charge tariff on lumber in Western Canada will absolutely refute the suggestion of the witness from Manitoba that under the agreed charge tariff the large shipper is being preferred to the detriment of the small shipper. So far as the railways are concerned, we treat them all alike.

MR CARSON: Q. Now, is there anything else, Mr. Jefferson, on this subject?

A. Well, it has been suggested in one of the briefs of Alberta, I think, that agreed charges interfere with legitimate competition from other carriers. This is not so, because motor carriers, which are mainly the competitors, which the agreed charge is designed to meet, themselves originated the idea of contracts with individual shippers. I venture to say that the so-called contract carriers by truck are more numerous than the so-called

common carriers by truck.

Q. Now, do you want to say anything more about the present situation with regard to agreed charges?

A. Well, I would like to say that agreed charges, like competitive tariffs, did not receive the interim increase of 8% on the 11th October, 1949, but they are now---

THE CHAIRMAN: Q. Pardon me a moment. By the terms of these agreements, could they have been subjected to this increase?

A. They could not have been subjected to the increase at the time.

Q. At what time?

A. They could not have been subject to the increase at the time, that is, on the 11th October. You have to serve notice of termination and then re-negotiate, and that is being done at the present time. In some of these agreed charges agreement has been reached between the parties that they will be subject to the 8% interim increase, others that they will not be subject to the increase, that they won't agree to it---

Q. What happens in that case? Does the contract come to an end or does it go on on the old terms?

A. We served notice of termination on all the parties signatory to the agreed charges that they would terminate on a certain date unless a new agreement was entered into. Now, where we could agree, where an agreement could be reached that the increase could be applied, it will be applied. Where the parties to the agreement say they cannot continue to give the railways the traffic if we increase the agreed charge, then we sit down with them and discuss to determine whether we think they can afford to pay more or not, and they tell us why they cannot afford to pay more. Now, if they cannot afford to pay more, then we have to

decide if we will continue the agreed charge on the present basis.

I might mention the oil companies. Now, the oil companies agreed to the 8% increase in the agreed charges on petroleum products in Alberta and Saskatchewan, that is, on petroleum products moving out of Calgary, Edmonton and the Lloydminster area. Now, meetings have been held with the oil companies with respect to the agreed charges on petroleum products in Eastern Canada, Ontario and Quebec, and they have proven to us that if we increase the agreed charge rates in the east we are going to lose the business, they will withdraw; in fact one of them has withdrawn even without increasing the rate, but in that case the railways have decided that they will continue the current agreed charge tariffs without increase. The oil companies made every effort to prove to us that the rates should be reduced rather than increased, but we finally agreed that they will continue on the present basis.

MR FRAWLEY:Q.Then, Mr. Jefferson, would you please have for us when we resume in January a supplementary statement briefly indicating what the rate will be in Calgary on petroleum products out of Calgary after you have re-negotiated at a higher rate, as against what the rate will be out of Sarnia and Port Credit in Ontario?

A. Yes, sir. You can determine that by comparing the scales in the two agreed charges.

Q. Rates out of Port Credit and Sarnia will remain the same, but out of Calgary and Edmonton they will have increased?

A. They have been increased.

Q. The new agreed charge is already effective, is it?

A. I believe it is.

Q. It is not on page 80, is it? It is October 1st.

A. Yes, effective October 11th.

Q. October 11th, yes; then you would have to correct this statement on page 80, Mr. Jefferson?

A. Oh, yes.

Q. Thank you very much.

MR O'DONNELL: I would like to draw to the attention of the Board that agreed charge No.42, which was made effective August 29, 1949, between the Canadian National Railways and the Shell Oil Company of Canada Limited on petroleum products has a clause in the conditions attaching to the agreed charge, which reads as follows:

"Clause 7. The rate set out in paragraph "D" of this Agreement shall be subject to such increase as may be ordered by the Board of Transport Commissioners for Canada on the pending application for a general increase in freight rates and such increased rate shall come into effect on the effective date of the general increase so authorized."

And effective on the 11th October, 1949, the rate was increased in conformity with the provisions of the 8% increase judgment, so that it became effective 11th October, 20¢ per 100 pounds, instead of what it had been in the agreed charge as originally negotiated, effective August 29, 1949. The earlier charge was 18½¢.

THE CHAIRMAN: Where does the Shell Company operate?

MR O'DONNELL: Well, this agreed charge is from Gaspe, Quebec, to Chandler, Quebec; and there is a marine storage tank at Gaspe, I am told. .

THE WITNESS: Mr. Carson, if the Commission would like me to explain what has happened to any of these agreed charges by these negotiations I would be glad to furnish them with it, unless the examples I have cited are

sufficient. Take this agreed charge on salt from Sandwich to Shawinigan Falls---

MR CARSON: I gather, Mr. Jefferson, that we do not need to go into that any more fully.

THE CHAIRMAN: Not so far as we are concerned.

THE WITNESS: All right.

MR CARSON: Q. Now we come to another subject, in which I think Mr. Frawley has some interest -- transcontinental rates. That is dealt with in Part I of our submission, commencing at page 90 and running on for several pages. Would you please explain to the Commission, Mr. Jefferson, the application of these transcontinental rates?

A. The railways for competitive reasons have in effect transcontinental commodity rates on, first, westbound traffic from points in Eastern Canada to British Columbia Pacific coast points, and, second, on eastbound traffic from British Columbia Pacific coast points to destinations in Eastern Canada.

Q. Now, the Alberta submission entitled "The Long and Short Haul Rule" states, on page 22 of that document:

"Our research indicates that until the effective date of the Western Rates Case judgment there were no transcontinental competitive commodity rates of importance."

Have you any comments to make on that passage of the Alberta brief?

A. Yes, sir. It is true the first transcontinental tariff published by the Canadian railways was subsequent to the Western Rates Case of 1914. This, however, does not mean that there were no westbound or eastbound transcontinental commodity rates prior to that time. Prior to these tariffs being published by the Canadian railways the

rates were contained in tariffs published by the Transcontinental Freight Bureau at Chicago, and applied both westbound and eastbound the same as today.

MR FRAWLEY: What was the date of that?

MR CARSON: We are just coming to that.

THE WITNESS: Reference might be made to Transcontinental Freight Bureau Tariff No. 5-F, C.R.C. No.208, effective April 1, 1910, and Transcontinental Freight Bureau Tariff No. 5-G, C.R.C. No.319, effective August 6, 1913. These tariffs contain many more westbound commodity rates than are shown in the tariffs in effect today. Now, the mere fact that the first tariff reference I gave was effective in 1910 does not mean that there were not some before that. I am told that this C.R.C. reference Tariff 5-F should be 268 instead of 208.

MR CARSON: Q. That is the one that was effective April 1, 1910?

A. Yes, sir.

THE CHAIRMAN: These were all competitive tariffs even then, were they?

MR CARSON: Q. The Chairman would like to know whether these were all competitive tariffs even then?

A. Oh, yes, sir.

THE CHAIRMAN: What was the competition then?

MR CARSON: Q. What was the competition then?

(Page 14057 follows)

A. I don't think at that time - There were boats in operation from Montreal, if you will, to Vancouver, but the competition was with the United States goods.

Q. United States Railways ?

A. Yes, sir.

MR. CARSON: Now, Mr. Jefferson, have you a statement showing a comparison of some of the rates as in effect April 1, 1910, August 6, 1913, and November 1, 1949?

A. Yes sir.

MR. FRAWLEY: Mr. Jefferson, have you got the date of the first Canadian tariff that was filed after the Western Rate Case?

A. Yes, the 1910 and 1913 were Canadian tariffs but they were published in Chicago by the Transcontinental Freight Bureau and that is probably why you could not find them, but the first tariff published in the name of the Canadian Pacific Railway was in 1914, I think it was.

MR. CARSON: This will be Exhibit No. 143.

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EXHIBIT 143: Filed by Mr. Carson: Statement of Rates of Selected Commodities from Montreal and Toronto to Vancouver in Effect April 1, 1910, August 6, 1913, and November 1, 1949 as Compared with Class Rates Applicable to These Commodities on the Same Dates.

A. Now, the commodities which were taken for comparative purposes of this statement were those included in Graphs 1 to 12 on pages 24 to 35 of the Alberta Brief entitled "The Long and Short Haul Rule".

MR. FRAWLEY: Which graphs, please?

MR. CARSON: 1 to 12.

A. This statement shows that generally the commodity rates in effect on April 1, 1910, were a lower

percentage of the class rates than in effect on November 1, 1949. Now, we will take the first item, if you will, "Acids" and to compare like you should use the 30,000 lbs. minimum. In that case, they are both the same. On April 1, 1910, the commodity rate was from 46.8% to 62.9% of the class rates where the goods were classified 3rd 4th or 5th. The commodity rate today is 79.8% of the class rate on the acids classified as 4th class and 92.3% on the acids classified 5th class.

Now, take the barbed wire. In 1910, the commodity rate was 80¢ for a minimum of 40,000 lbs. and the 5th class rate \$1.75. The commodity rate was 45.7% of the class rate. Now, to compare like with like you cannot take the 40,000 lbs. minimum in 1910, and compare it with the 80,000 lbs. minimum for the lower rate in 1949, but if you compare it with the 30,000 lbs. minimum, you find the present commodity rate with a 30,000 lbs. minimum of \$2.18 is 69.9% of the 5th class rate of \$3.12, and where the commodity rate for 30,000 lbs. minimum is \$2.74, the commodity rate is 87.8% of the 5th class rate of \$3.12.

It just occurred to me that someone might ask why two commodity rates at 30,000 lbs. minimum. The explanation of that is that they are in two separate items that have a different mixture of commodities. If there was a straight car of barbed wire, it would naturally move at the lower rate of \$2.18, if there was only 30,000 lbs. to be shipped, but it depends on the mixture in the car whether the \$2.18 or the \$2.74 rate is applicable.

Q. That is, if you had acids and some other commodity in the same car?

A. No, the barbed wire is probably a mixture of iron and steel commodities, but one mixture takes \$2.18 and

another mixture takes \$2.74. Now, on page 74, taking canned goods, in 1910 the rate on condensed milk or evaporated milk was 95¢ for a 40,000 lbs minimum, the 5th class rate was \$1.75 and the commodity rate was 54.3% of the 5th class rate. Today, on a car moving at the 40,000 lbs. minimum weight, the rate is \$2.09 and the 5th class \$3.12. The commodity rate is 67% of the class rate, but if there was a car of 70,000 lbs., the commodity rate is 44.9% of the 5th class rate. Now, on the canned goods like meats, vegetables, ketchup, soups, etc., the commodity rate in 1910, was \$1.05, 60% of the 5th Class rate for 30,000 lbs. minimum car, whereas today the commodity rate is 67% of the 5th class rate for a 40,000 lbs. car and 44.9% of 5th class for a 70,000 lbs. car.

COMMISSIONER ANGUS: Are the class rates that are used inclusive of the 8% increase or not?

MR. CARSON: Are the class rates that are used in this statement inclusive of the 8% increase or not?

A. The class rates used in this statement would be inclusive of the 8%, because the statement is dated December 1, 1949 - yes sir.

MR. EVANS: The column actually shows at the top "Rates in Effect November 1st."

MR. CARSON: Is there anything you wanted to say about that middle date, August 6, 1913, or does that pretty well speak for itself?

A. No, there is nothing I want to say about the August 6, 1913, column; it speaks for itself, and sometimes the percentage of the commodity rate of the class rate is higher than in 1910 and others it may be lower.

Q. And that date was selected because it was the date upon which the Transcontinental Freight Bureau Tariff 59 C.R.C.

319 came into effect?

A. I may say the reason why we took those two dates, April 1, 1910, and August 6, 1913, is that while we knew there were tariffs in effect before 1910, we could not find the tariff for an earlier date because they are destroyed; they are not kept for that number of years. Then, we wanted to take the tariff in effect immediately before the railways issued the tariffs themselves. This tariff of 1910, cancelled one that was in effect in 1909. The "5 - F" denotes that, because there was 5, 5A and so on.

MR. FRAWLEY: You were going to give me the date, Mr. Jefferson, and you were interrupted. You were going to give me the date of the first Canadian tariff published as such. If you have not got that handy, do not bother. I thought you were just getting to it when Mr. Carson took you to something else?

A. It was in 1915; it was right after the Western Rates Case.

MR. CARSON: Apparently I am interrupting when I examine my own witness. Now, Mr. Jefferson, what is the necessity for competitive west bound and east bound transcontinental commodity rates without their application to or from intermediate points?

A. It is necessary for the railways for the protection of their competitive revenue interests to publish competitive transcontinental commodity rates without their application to or from intermediate points. There is actual and potential water competition via the Panama Canal between Montreal, St. Lawrence, and Atlantic ports and British Columbia Pacific Coast ports. There is also competition with goods produced in other countries such as the United Kingdom, Europe, South America, etc., which reach or may reach

British Columbia coast ports by water.

Q. Have you got, Mr. Jefferson, a memorandum that would give the Commission any assistance as to the traffic received at Vancouver during any part of 1948 or 1949?

A. Yes sir.

Q. This is a summary, isn't it, Mr. Jefferson, of considerable data?

A. Yes sir.

Q. Perhaps I can file that as Exhibit 144.

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EXHIBIT NO. 144: Filed by Mr. Carson: Summary of traffic received at Vancouver during part of 1948 and 1949.

COMMISSIONER ANGUS: Were some of these transcontinental rates completely inoperative before the 8% increase in class rates, because their percentages would work out, in some instances, much more than 100% of the commodity or class rates?

MR. CARSON: Did you follow that, Mr. Jefferson? Were some of these transcontinental rates inoperative before the 8% increase, because Dr. Angus is pointing out that some of them seem to be -

COMMISSIONER ANGUS: One of them is 96% of the increased rate and it must be more than 100% of the unincreased rate?

A. On structural iron and steel, fabricated or not fabricated, the commodity rate of \$2.74 for the commodity classified 6th class is 96.8% of the class rate. Well now, that might be so if you shipped a straight car of the commodity that classifies 6th class, but I have no doubt but that those commodities are in an item that contain a mixture with other commodities and if you have a mixture as a whole, it would not be inoperative, but if you take a straight car of the commodity classified 6th class it would be so.

COMMISSIONER ANGUS: Q. I wondered if any transcontinental rates were not kept in the tariff at a time when it was actually cheaper to ship by class or commodity rates instead?

A If the class rate was lower than the commodity rate, the commodity rate might still be in the commodity tariff by reason of the mixture; but that would not deprive the shipper.

Q But it would not apply on less than mixtures?

MR. CARSON: Q. Unless there were a mixture?

A. Oh no. But what I am trying to say is: That if you had a commodity rate where the class rate, we will say, was lower than the commodities in the mixture, classified as a sixth class, but the commodities were higher than the classification of the fifth class, then, in a period where the class rate might be lower, if a man shipped a straight car on the sixth class charge, it is more than the sixth class rate.

COMMISSIONER ANGUS: Q I wondered if the trans-, continental rates were withdrawn from your tariffs if they became higher than the class rate or commodity rate?

A. If it was an individual commodity in an item and we found that the class rate was lower than the commodity rate, we would take the commodity rate out of the tariff, yes sir.

MR. CARSON: Does that answer your question, Dr. Angus ?

COMMISSIONER ANGUS: Yes, thank you.

MR. CARSON: Q. Now then this has been marked as Exhibit 144?

A. Yes sir.

Q Would you explain to the Commission what that

statement was designed to show?

A. This statement was prepared to show the number of tons of traffic received at the Port of Vancouver from deep sea steamers from all countries for the two periods where we had the information. The first period is January 1st 1948 to June 30th, 1948. And the second column is for the period January 1st, 1949 to April 30th, 1949.

Q. Yes.

A. This statement only includes traffic from countries other than Canada, of course, but it includes the United States.

Q. Would you tell the Commission why the second column is for four months, for only four months in 1949?

A. Because at the time we obtained the information, only four months' figures were available.

Q. Yes. Now what have you to say about this statement? What comments do you want to make about it?

A. The only comment to be made on the statement is that we wanted to furnish the Commission with the volume of traffic received at Vancouver from deep sea steamers.

In the first six months of 1948 it amounted to slightly over one million tons; whereas, in the first four months of 1949, it amounted to 678,600 tons; and I daresay that if we had the ^{first} six months of 1949, it would have shown about the same volume as the first six months of 1948.

Q. Yes. Have you got any other data you want to give the Commission on this matter?

A. Yes sir. The Chairman asked the other day if we could give him a statement of the traffic forwarded from Vancouver to foreign countries. Now, this publication which I have in my hand is published by the Dominion Bureau of Statistics for the year ended December 31, 1948.

In Table 8 on pages 51 to 83, there is included

the cargoes loaded at Canadian ports for foreign countries, and it shows the Atlantic ports and the Great Lakes ports, and the Pacific ports and by commodities.

On pages 82 and 83 there is a summary by commodities to all countries; while on pages 51 to 81 it shows the commodities to each country separately.

Then on Table 9, pages 84 to 102, there is included cargoes unloaded at Canadian ports from foreign countries; and there is a summary of the cargoes unloaded, on pages 101 and 102.

It may be that the Commission would like to have this book filed as an exhibit.

MR. CARSON: Q. The book is entitled "Government of Canada Shipping Returns, Year Ended December 31, 1948. D.B.S. Publication"

You do not want to comment on any of the details in this book, I take it, and you only want to make it available to the Commission?

A. That's right.

MR. CARSON: Then I tender this book as Exhibit 145. We only have the one copy of it, and I assume that will be satisfactory?

MR. COVERT: The book will be Exhibit 145.

EXHIBIT 145 filed by Mr. Carson: Book entitled "Government of Canada, Shipping Returns Year ended December 31, 1948, D.B.S. Publication."

THE CHAIRMAN: We shall adjourn now until 2.45 p.m.

At 1 p.m. the Commissioner adjourned until
2.45 p.m.

Friday, December 16, 1949.

AFTERNOON SESSION

C. E. JEFFERSON, recalled.

EXAMINATION BY MR. CARSON (cont'd.):

Q. Mr. Jefferson, before adjournment you had spoken about competition with goods produced in other countries such as the United Kingdom and Europe, South America, and so on, goods that reach or may reach the British Columbia and Pacific coast ports by water. Is there any other competition to which you would like to refer?

A. Yes, sir; there is competition with goods from points in the United States which may reach British Columbia either by water or by rail.

Q. You said, "which may reach." I suppose some of it does reach?

A. Yes, sir.

Q. Is there actual water competition today from St. Lawrence ports to British Columbia Pacific coast ports?

A. Yes; there have been four sailings from Montreal to Vancouver from the month of May to December of this year.

Q. To December?

A. May to November of this year.

Q. What were those sailings?

A. There was the S.S. Eskdalegate, May 5.

THE CHAIRMAN: Q. Pardon?

A. Eskdalegate, May 5.

MR. CARSON: Q. Yes?

A. S.S. Seaside, September 11, 1949; S.S. Lakeside, October 22, 1949, and S.S. Paris City, November 29, 1949.

Q. Did all these ships sail from Montreal on

these dates?

A. They all sailed from Montreal on these dates and made calls at Three Rivers, Quebec, and Sydney, Nova Scotia.

Q. Have you any information of the quantity of traffic that was handled on these ships?

A. Yes, sir. The Eskdalegate carried 2,193 tons; the Seaside 4,405 tons; the Lakeside 3,770 tons, and no doubt the Paris City carried a similar quantity. We have not the tonnage carried on the Paris City as yet.

Q. I think we have an exhibit before the Commission, No. 27, which contains details of the traffic handled on the Eskdalegate. Have you a statement showing the commodities and quantities handled on the Eskdalegate and the Seaside?

A. Yes, sir.

Q. Does it add something more in the case of the Eskdalegate to what was in Exhibit 27?

A. No, but it shows in parallel columns what was handled on each steamer, the Eskdalegate and the Seaside, because in some instances you will find the same commodities handled on both ships.

Q. That will be Exhibit No. 146.

EXHIBIT No. 146: List of cargo carried
on S.S. Eskdalegate,
and S.S. Seaside.

THE CHAIRMAN: Can you tell me, Mr. Carson, whether these vessels belong to the same company or different companies?

MR. CARSON: Q. Can you tell the Chairman whether these two vessels that are dealt with in the exhibit belong to the same company or different companies?

THE CHAIRMAN: I mean the four vessels.

THE WITNESS: I do not know who the actual owners

are, but the Monsen-Clarke Company are the firm who charter these ships.

MR. CARSON: Q. Did the Monsen-Clarke Company charter all four ships for these voyages?

A. Yes.

Q. I understand they are known as tramp steamers?

A. Yes, sir; they are not ships that are in the Montreal-Vancouver service. They do not confine themselves to that service. They are round the world tramp steamers.

THE CHAIRMAN: Q. They go wherever they can carry and find freight?

A. Yes, sir.

MR. CARSON: Q. With that exhibit before us, Mr. Jefferson, is there anything you would like to say about it?

A. First I would like to mention the commodities where there is a substantial tonnage on one or both of the ships. The exhibit shows that as to binder twine the Eskdalegate carried 292,500 pounds, and of calcium carbide the Eskdalegate carried 349,999 pounds, and the Seaside 6,750 drums. I might say that the source from which the information was obtained did not show the tonnage on each steamer in the same manner. Canned goods, the Eskdalegate had 98,314 pounds, while the Seaside had over 13,000 cartons, 1,696 cases, 439 boxes and 79 bundles.

MR. FRAWLEY: Q. Do you know where those canned goods originated?

A. They originated from eastern Canada.

Q. Close to Montreal?

A. I do not know whether they originated in Quebec or Ontario, but I would imagine both.

COMMISSIONER INNIS: Is there any explanation for the 20 tons of birdseed?

MR. O'DONNELL: That is for Mr. Frawley in Alberta.

MR. EVANS: There are a lot of western singers.

MR. FRAWLEY: We use gravel.

THE WITNESS: The Seaside carried 2,400 cartons of cereals. On the next page there are two items I should like to mention. The Eskdalegate carried 166,325 pounds of glassware. The Seaside carried 41 cases and 11,233 cartons. Iron and steel bars and wire rods, the Eskdalegate carried 1,125,940 pounds. Turning to page 3 the Eskdalegate carried 2,397,690 pounds of iron pipe, and I will have something more to say about that later. The Seaside carried 8,149 cases of caustic soda. I should like to add that five of the commodities carried on either the Eskdalegate or the Seaside are the same commodities as the Province of Alberta show on their graphs 1 to 12 on pages 24 to 35 of their brief, entitled "The Long and Short Haul Rule." Those commodities are acids, canned goods --

MR. FRAWLEY: Which acids?

THE WITNESS: Hardware --

MR. CARSON: Q. Which acid?

A. Oh, both because Mr. Frawley's exhibit shows acids, N.O.I.B.N. which might include either or both phosphoric acid or pitch oil acids. The additional commodities are hardware, iron and steel bars and wire rods and paper.

Q. Yes?

A. We have not yet received the commodities carried on the Lakeside or the Paris City.

Q. What is the situation with respect to ship

competition from British Columbia to eastern Canada?

A. There was actual ship competition from British Columbia Pacific coast ports to Canadian St. Lawrence and Atlantic ports prior to the war. There have not been any sailings eastbound from British Columbia to eastern Canada since the war. Advice received from Vancouver under date of the 9th of December indicates there will be a steamer from Vancouver, and probably other British Columbia lumber ports, to United States Atlantic ports and Halifax, sailing on or about the end of December.

Q. Have you any information as to what ^{is} booked for that sailing?

A. There has been booked for this sailing an undisclosed quantity of lumber to United States Atlantic ports and Halifax, and in addition general cargo for Halifax.

Q. Were any of the westbound transcontinental rates increased between the declaration of war in September, 1939, and November, 1941, when price control became effective under Order 92?

A. Yes, sir. During the period between September, 1939, and November, 1941, there were increases in many of the westbound transcontinental commodity rates.

Q. Can you give us those briefly in any summary form?

(Page 14074 follows)

A. Yes, I will just mention the more important dates rates were increased. In the carload items on December 1, 1939, rates were increased in 91 items, on January 1, 1940, in 15 items, and on February 1, 1941, in 20 items. The carload items where the rates were increased represent commodities on which there were substantial movements. In the less carload commodity items we increased the rates in 101 items, effective July 1, 1940.

Q. What do you say as to the possibility of increasing other transcontinental commodity rates during the period Wartime Prices and Trade Board Order 92 was in effect, from November 1, 1941, until September 15, 1947?

A. Well, it was not possible to increase rates during that period.

Q. Because that order applied to such rates?

A. Yes, sir.

Q. Now, would you tell the Commission of the action which was taken to increase these transcontinental rates subsequent to September 15, 1947?

A. All westbound and eastbound transcontinental commodity rates were increased 30%, to become effective November 1, 1947. This increase was, however, upon representations made by the Western and Maritime Provinces, suspended by the Board of Transport Commissioners by its Order No.69612 of 17th October, 1947.

Q. Then have those rates been increased since that time?

A. Yes, these rates were increased by 21%, effective April 8, 1948, under the Board's Order No.70425 of March 30, 1948.

Q. And has there been another increase since then?

A. The rates were again increased by 15%, effective

September 15, 1948.

Q. And what has happened since then?

A. After the September 15, 1948, increase was made effective the railways made a careful study of the westbound and eastbound transcontinental commodity rates.

Q. Competitive rates?

A. Transcontinental competitive commodity rates; and the following action was taken -- I will deal first with the westbound rates:

Effective February 12, 1949, 110 carload commodity items were cancelled, which in some cases contained less than carload rates.

Effective March 7, 1949, 22 additional carload items and 12 additional items containing both carload and less than carload rates were cancelled.

Effective March 7, 1949, 148 items containing less than carload rates were cancelled.

Effective September 1, 1949, rates in the remaining items were advanced in the manner the railways considered after a careful review could be increased and still retain a substantial amount if not all of the traffic.

Q. Now, those are the westbound rates you have been referring to?

A. Yes, sir.

Q. Does that complete the increases in those rates?

A. That completes the increases in the westbound rates.

Q. Since September 1948?

A. That is right.

Q. Now, what about the eastbound?

A. In the eastbound tariffs, effective June 30, 1949, 70 items containing carload and less than carload

rates were cancelled.

Effective October 1, 1949, rates in the remaining items were advanced in the manner the railways considered after a careful review could be increased and still retain a substantial amount if not all of the traffic.

Q. Now, a few moments ago, Mr. Jefferson, you said there was competition with goods produced in Europe that moved all-water to Vancouver; could you give an illustration of that to the Commission?

A. Yes, sir. Cast iron pipe is used in British Columbia in substantial quantities for water mains. There is keen competition between manufacturers in Eastern Canada and the United Kingdom in the supplying of this pipe in the British Columbia market. Prior to April 8, 1948, the rate on cast iron pipe in carloads, minimum 70,000 pounds, from Toronto to Vancouver was 95¢ per 100 pounds. This rate was increased 21%, effective April 8, 1948, to \$1.15, and again increased, effective September 15, 1948, 15%, to \$1.32.

Q. Now, can you tell the Commission anything about the effect of those increases?

A. Following these increases cast iron pipe contracts were placed in the United Kingdom rather than Eastern Canada, and it became necessary for the railways to decide if they were going to forego the traffic or assist the eastern Canadian manufacturer in reaching the British Columbia market in competition with the United Kingdom. Following a meeting between representatives of the railways and the manufacturers, it was agreed to reduce the rate from Toronto to Vancouver from \$1.32 to \$1.20. This was done effective November 30, 1948. At the same time the eastern manufacturers also reduced their price to assist in meeting the competition. The reduction at that time

considered necessary was absorbed in part by the railways and in part by the manufacturers. While this reduction enabled the railways to recapture some of the traffic, it was not sufficient to hold the business to the railways in competition with United Kingdom producers or in competition with the movement from Eastern Canada via water. Exhibit No.146, which was just filed, shows that the S.S. Eskdalegate carried 1,200 tons of this pipe from Eastern Canada to Vancouver.

MR FRAWLEY: Q. At what rate, do you know?

A. I do not know. Representatives of the railways had a further meeting with the manufacturers in Eastern Canada, and found it necessary in order to retain this traffic for the railways to again reduce the rate. Effective June 20, 1949, the rate was reduced from \$1.20 to \$1.00. While I say, Mr. Frawley, I do not know what rate the steamer carried the pipe at, I had the information at one time but I haven't it here; but the information that developed was what necessitated the reduction in the rate from \$1.20 to \$1.00, and since that time all the movement to the coast has been by rail.

MR CARSON: Q. And now, with the rate reduced to \$1.00, it is less than it was after you put in the 21% increase, because the 21% increase you said put it up to \$1.15?

A. That is right, yes, sir.

COMMISSIONER INNIS: Q. Have you any statistics as to shipping rates? Are shipping rates going down now? Have they been going down since the war?

A. The boat rates, the ship rates?

Q. Yes.

A. Well, steamer rates today are generally lower than they were a year or two years ago, yes, sir.

Q. With the prospect that they will continue to go down as shipping is released?

A. They may continue to go down, yes. They are not down to the 1939 level, for example, but they are lower than they were a year or two ago.

Q. And that always tends to favour the Panama route to Vancouver?

MR CARSON: Q. That tends to favour the Panama route to Vancouver?

A. Oh, yes, not only from Eastern Canada but also from foreign countries.

MR FRAWLEY: Q. Do you know where the iron pipe that the Eskdalegate carried came from?

A. Hamilton.

Q. From Hamilton?

A. Yes, sir, Hamilton or Toronto, I have forgotten which.

Q. Did it come down by boat to the ocean-going vessel at Montreal?

A. No, I think it was handled by rail.

Q. It was railed down?

A. Rail or boat, I could not say for sure.

MR CARSON: Q. Now, Mr. Jefferson, do you consider this rate that you have been speaking about -- that is, on the cast iron pipe, and these other competitive westbound and eastbound transcontinental rates -- compensatory?

A. Yes, sir, I would consider them compensatory.

Q. And what would you refer to in that connection?

A. Reference to tables which appear at pages 81 to 83 of the Appendix to Part I of this submission shows many examples of the present rates -- average loading per car, earnings per car, per car mile, and per ton mile. The

car mile revenue on the pipe, for example, is 28.1¢. That will be found on page 82, about halfway down the page. Rate on the cast iron pipe from Toronto to Vancouver of \$1.00, with an average loading weight of 75,800 pounds, produces earnings of \$758 per car, or 28.1¢ per car mile. This is below the system car mile revenues for 1948 for all traffic, which amounted to 35¢ for an average haul of 420 miles. With a much longer haul, from Toronto to Vancouver, of 2695 miles, it would, I believe, be found that the car mile earnings on the pipe were compensatory. It will be observed that this is one of the lowest examples contained in the Appendix.

Q. Now, are there any other items in this Appendix to which you would like to refer?

A. Well, the first page, that is page 81, deals with the eastbound rates.

Q. Yes?

A. Now, take canned fish or canned salmon, from Vancouver to Toronto is an example; for a distance of 2695 miles the rate---

Q. Just a minute, now.

A. The second line.

Q. Well, you said 2695 miles -- oh, yes, I see it.

(Page 14081 follows)

A. - - -at a rate of \$1.40, average loading weight 70,798 lbs. with per car earnings of \$989.77 yields a car mile earning of 36.7¢. Now, take the 3rd item (I won't take the next item "canned goods" because it is the same as canned fish) the 3rd item, fresh frozen fish from Vancouver to Toronto, a distance of 2695 miles, rate of \$3.26, average loading per car 37,676 lbs. yields a per car earning of \$1228.24 or 45.6¢ a car mile.

Q. Yes?

A. Now, there is an item here on cocoanut oil from Vancouver to Hamilton, 2730 miles, rate \$1.17, average loading per car 62,178 lbs. producing an earning of \$727.48 per car or 26.6¢ per car mile.

Q. Is there anything you want to say about that?

A. No sir, I have nothing to say about that. I think we mention it in our Submission.

MR. FRAWLEY: The average loading on paper and paper products was under the minimum. I wonder what that means?

A. Yes, but they pay on the basis of 40,000 lbs.

Q. How do you get those average loadings? Would you explain that Mr. Jefferson? What does that mean?

A. The average loadings per car on the west bound traffic was obtained from a statement of the billing for the first six months of 1948 - all cars received at Vancouver from the east, and we took all the commodities, that is that were used in the exhibit, and all the cars, added up the weight, divided the weight by the number of cars to determine the average weight. We did the same thing on the eastbound cars but for a different period.

COMMISSIONER INNIS: Do you find this basis shifting from time to time? That is to say, would you use another figure than 35¢ if your costs were going up or down?

MR. CARSON: Do you find this base figure of 35¢ changing

from time to time?

A. Because of the transcontinental rates going up or down?

COMMISSIONER INNIS: No, because of changes in costs or for other reasons which determine the use you make of it?

A. Of course, the per car mile revenue is the revenue from the traffic. Now, in determining the measure of the rate to meet the competition (you are speaking of one of the yardsticks that we use) we would compare it with the car mile earning that we were receiving on the traffic which was moving for say the previous year or the previous month.

Q. That yardstick would change from year to year or from month to month?

A. The yardstick would not change unless rates went up.

Q. But then you have this as an average which is worked out, presumably, from a great number of estimates which go into the average. Now those estimates will change. Therefore, your average will change?

A. The rates do not change at all. The average car mile earning might change by reason of the change in the character of traffic and the length of haul.

Q. Then you do have recalculations from year to year which would mean 35¢ is something now; it would be something else next year and something else another year?

A. If it were something else next year, we would use that as our average in making our test, but of course, we keep the car mile earnings tabulated over a period of years and we always know how they change, but they would not change materially unless there was a change in rates.

Q. They do not change materially?

A. Not unless there is a change in rates.

Q. Do you use this average over a period of years, or do you use the average that is worked out for the preceding year?

A. Well, today we would use the earning per car mile for last year or last month for the reason that there have been so many changes in rates since 1942, we will say, but back in the 1930's we would use it for a period of years.

Q. Then your yardstick would change perceptibly?

MR. CARSON: For a rate increase or the other reasons he has mentioned.

MR. FRAWLEY: The average loading, you say, was determined by tests made in 1948?

A. Yes, sir.

Q. The last six months or the first six months of 1948?

A. The first six months.

Q. You see, the statement is dated October 1, 1949 and shows rate increases, of course, since the time you took the average loading test?

A. Certainly.

Q. In other words, some of these cars were carried at less than the rates you show today?

A. But the statement would not have any effect if we used the rates of 1948 because it would not show the current revenue.

Q. That is true, but you are using last year's rates?

A. We are using last year's weights.

Q. When really that traffic was carried at lower rates?

A. But there would be no reason to expect that the average loading per car would ^{not} be just as heavy today as it was in the first six months of 1948.

MR. CARSON: Does that answer your question Dr. Innis?

COMMISSIONER INNIS: Yes.

MR. CARSON: Now then, Mr. Jefferson, have you taken out the ton mile and car mile earnings on the transcontinental competitive rates on traffic that are included in the graphs on pages 24 to 35 of the Alberta Brief on the Long and Short Haul Rule?

A. Yes sir, that information appears at page 127 of Part II of the Canadian Pacific Submission.

Q. If the Commission would like to have the page of the transcript where these graphs appear, the page is 11737 and the following pages. Now then, you were saying, Mr. Jefferson, that these appeared -

A. - at page 127 of Part II of the Canadian Pacific Submission.

Q. That is where you take out the ton mile and car mile earnings on these rates that are in the Alberta Brief?

A. Yes, sir. Now, the table at page 127 of Part II is an analysis of the car mile and the ton mile earnings on the commodities mentioned in the example shown in Figures 1 to 12, pages 24 to 25 of Alberta's Submission entitled "The Long and Short Haul Rule". Now, the first item, the self-propelling vehicles -

THE CHAIRMAN: Mr. Carson, could you give me the gist of the particular submission that you are answering by these figures?

MR. CARSON: Yes, it is the Alberta Submission on the Long and Short Haul Rule and the transcontinental rates.

MR. EVANS: These graphs, my lord, show two lines. They show the normal or class rate and the changes over a period of years.

THE CHAIRMAN: That is what volume?

MR. EVANS: It is the Alberta Brief and these twelve commodities are each shown on a graph with the normal or class

rate and the changes in that rate and the competitive rate and the changes in the competitive rates and these are the commodities that this schedule deals with.

THE WITNESS: Now, the first item in the table at page 127 which is the first graph or figure is "Vehicle parts, self-propelling". From Oshawa Ontario the distance to Vancouver is 2729 miles, the rate is \$2.74, average loading per car 49,312 lbs. producing earnings of \$1351.15 per car or 49½¢ per car mile and a ton mile earning of 2¢.

MR. CARSON: Now, that particular graph of vehicle parts appears on page 11737 of the transcript containing the Alberta Brief.

A. Yes. Now, the second item or graph is with respect to acids. From Montreal to Vancouver, 2878 miles, a rate of \$2.88, average loading per car 35891 lbs. producing earnings of \$1033.66 per car or 35.9¢ per car mile or 2¢ a ton mile. The next line, from Toronto shows an even better comparison because the average loading per car was greater and the mileage less. I might say that the points of origin in the table were not shown in the graphs, but we used points of origin from which we knew the traffic moved.

Q. Yes. Are there any other items you wanted to point to on that table, Mr. Jefferson?

A. We might take the barbed wire item, Item 6. I am going to take the less favorable one from Windsor Ontario to Vancouver, a distance of 2913 miles at a rate of \$2.74, average loading 34,372 lbs. producing earnings of \$941.79 per car or 32.3¢ a car mile and 1.88¢ a ton mile.

Q. Yes.

A. Now, I might say that car mile earnings of 32.3¢ are a little below the car mile earnings for car load traffic. The average car mile earnings were all carload traffic. I guess I am on the wrong page. Page 89 is it? I got into the ton mile page.

Q. Of Part 1.

A. Yes sir.

Q. Page 89 of 35¢. I was looking for the total which showed car mile earnings for carload traffic only which, as I recall it, was 34¢ for a very much lesser haul.

THE CHAIRMAN: You are demonstrating that the items referred to in Mr. Frawley's brief are compensatory.

MR. CARSON: Yes, my lord.

THE CHAIRMAN: Does the Alberta brief claim that they are not compensatory?

MR. FRAWLEY: We certainly do not. We have some new rules for determining what a compensatory rate is, but we have never challenged that these are not earning almost the average.

COMMISSIONER INNIS: It is a difference in the interpretation of the word "compensatory".

MR. FRAWLEY: Yes sir, indeed it is. Take canned goods. We are pretty close to the average in canned goods. If that is of interest. I do not know.

MR. CARSON: Q. Did you find what you are looking for?

A. The figure I am looking for is the car mile earnings in Western Canada and Eastern Canada separately. One, the west is 34¢ a car mile, and Eastern Canada is 36.3; and for the system, it is 35¢. That is at the bottom of page 89.

THE CHAIRMAN: I suppose you would contend that this rule is not acceptable to you, Mr. Frawley, and that you have a better rule?

MR. FRAWLEY: Certainly Mr. Chairman. And that is to be found in my submission.

MR. EVANS: There must be some amendment in Mr. Frawley's rule, because one of the things he has in there is with respect to the compensatory measure of the rates.

THE CHAIRMAN: He says he has a better measure than yours.

MR. EVANS: Well, if he has he has never disclosed it to us.

MR. FRAWLEY: Oh, there is no secret about it. I even put in a draft amendment to the Railway Act.

THE CHAIRMAN: I was just trying to show what the real issue is between you.

MR. FRAWLEY: Well, I know what I want anyway. I don't know about what Mr. Evans wants.

THE WITNESS: All I have to add is that the car mile earnings, with two exceptions in the Table on page 127 are more than the system's average car mile earnings in 1948, of 35¢ for an average haul of 420 miles.

MR. CARSON: Q. Which compared with the distance shown in this table; and those two exceptions are barbed wire on the Windsor movement, and canned goods on the movement from Montreal.

A. That is right.

COMMISSIONER INNIS: Q. What are the factors which offset? In most cases you are quoting rates which are above 35.3.

A. Yes sir.

Q. Well, if 35.3 is an average, then there must be quite a number of items below it.

A. Yes sir.

Q. And what items would they be?

A. In transcontinental movements or in other movements?

1. The first of these is the

fact that the

second of these is the

third of these is the

fourth of these is the

fifth of these is the

sixth of these is the

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twenty-fifth of these is the

twenty-sixth of these is the

Q. Whatever items there are which pull down your average.

MR. CARSON: Q. What are the rates below 35.3 which helped to produce an average of 35.3?

A. There are many, but the most noticeable one where traffic moves in volume, would be the grain rates to Fort Willlam and Vancouver. That would be the main one, but there are others as well.

Q. Alberta coal?

A. Yes sir, and livestock.

COMMISSIONER INNIS: Q. Those would all be rates which you would regard -- I would not say ^{as} non-compensatory -- but rates which are rather below?

A. Yes sir; they are non-compensatory in the sense that they are too low and should be increased if they can be increased.

MR. CARSON: Is that all that you want to say on that table?

A. Yes, sir.

Q. Do you consider there is any injustice to the public in applying lower rates between Eastern Canada and British Columbia Pacific Coast ports than to and from intermediate points?

MR. FRAWLEY: Now you are getting to something that matters. What page is it?

MR. CARSON: I am asking him a question.

THE WITNESS: No.

MR. CARSON: Q. You do not consider there was any injustice?

A. No sir.

Q. Just tell the Commission why, and Mr. Frawley.

A. I do not consider the action of the railways --

MR. FRAWLEY: It is too bad that is not in the brief.

THE WITNESS: In meeting the competitive conditions

explained cause any injustice to the public, so long as the rates are reasonably compensatory.

MR. CARSON: Q. Yes.

A. The railways in meeting this competition are not giving to the public of British Columbia something which they cannot otherwise obtain.

But there is not the same competition in serving the Alberta market as the British Columbia market. The public of Alberta is paying normal rates in having their market served by manufacturers in the United Kingdom, Europe or other foreign countries by water through the Port of Vancouver and are required to pay the normal rate from Vancouver to the destination in Alberta. The further inland the goods are shipped from Vancouver, the higher the rate becomes.

It is, however, to be borne in mind that if competitive transcontinental commodity rates were to be made the measure of other rates, the railways would, in my opinion, be required to forego attempting to meet competitive conditions which the Eastern Canadian manufacturer and the railways are required to meet in reaching the British Columbia market in competition with goods produced in the United Kingdom, Europe, the United States, and other foreign countries.

Now, those remarks would also apply to goods shipped from Eastern Canada, except that the shipper could still get his goods out there by water. But it would be the railways who would have to decide whether they would continue to meet the competition, or forego the business, rather than have the rate to the intermediate territory reduced.

Q Yes. Now this is a subject which is dealt with further in Part 11 of the Canadian Pacific submission, and which may have to be touched on later in your evidence,

when we come to that part. Now then, the next subject is Alberta coal.

MR. FRAWLEY: You are not finished then with the long-and-short haul discrimination?

MR. CARSON: No.

MR. COVERT: Mr. Chairman, I do not know how long "Alberta coal" is going to take. I understood we were going to adjourn a little before 4 o'clock today, and I have a couple of announcements to make. I wonder how long you will be on "Alberta coal"?

THE CHAIRMAN: Pardon me, I think we had better have the announcements now, Mr. Covert.

MR. COVERT: I thought, perhaps, Mr. Chairman, that the first thing to do, while all counsel were present, was to notify them now what the proposed agenda is when we re-convene on January 30.

First we will take up the balance of the Alberta submission; followed by British Columbia and Nova Scotia. Then there are a few smaller briefs. And following them, we will go back to the Canadian Pacific, to be followed by the Canadian National; and then the briefs on the Crows Nest will come in and follow on.

MR. EVANS: May I make one suggestion, Mr. Chairman?

THE CHAIRMAN: Did you not say "Crows Nest"?

MR. COVERT: Yes.

THE CHAIRMAN: Yes, Mr. Evans.

MR. EVANS: While we are discussing the Crows Nest brief, it would seem to me that they should precede the railway's case on that subject, if you are going to finish the Provincial submissions. The fact that they ^{are}/late in putting them in, I think, would suggest that it would be fairer if they presented those briefs before we were

to resume.

MR. COVERT: Perhaps I might explain. I think in the announcement it was suggested that if any briefs were to be filed in the Crows Nest matter, they should be filed by January 15, and should be handed to the railways before that time. I had always thought that the Crows Nest brief arose, really, as a sort of reply to the Canadian Pacific, and that, as long as the briefs were in the hands of the railways before the date mentioned, that would be the better way to carry on.

THE CHAIRMAN: Is not the position this way; That the Provinces are content with the Crows Nest rates as they are, and they do not want any change. It is the railways who are asking for something to be done. I think, in that case, it would be more in good form to hear you first, Mr. Evans.

MR. EVANS: Well, if that is your lordship's ruling.

THE CHAIRMAN: I do not think it would make much difference in the long run. Because you will have these briefs in your hands on January 15.

MR. CARSON: We do not know what may come in. But if we present our case first on the Crows Nest, and if something is given by way of supplementary brief by the Provinces, or in oral evidence, which would require an explanation on our part, perhaps we might have the privilege of offering something in the way of rebuttal.

MR. FRAWLEY: Oh, I would object to such a procedure, Mr. Chairman.

THE CHAIRMAN: I did not even hear what Mr. Carson was saying.

MR. CARSON: I beg your pardon, my lord, I was saying that if the railways put their evidence in on Crows Nest first, followed by the Provinces' answer, it may be

that witnesses will be called on behalf of the Provinces, or the Provinces will present some principles which are not in their briefs; so I assume, following their presentations, if there is something which we should fairly have an opportunity to rebut, we would hope that it would be permitted to us.

THE CHAIRMAN: If there is something new that should turn up at the last minute?

MR. CARSON: Yes.

THE CHAIRMAN: Well I would not worry about those things now. But I do say that the rule will be that the railways begin, because they are the ones who want something done. And from there on, we will see that everybody is heard.

MR. COVERT: There is one other thing I want to deal with, Mr. Chairman, I thought that while the counsel were here, in an attempt to be helpful to counsel, I prepared an outline of rules for argument, including the order in which counsel will submit their arguments. Mr. Desmarais and I drafted them.

Counsel are not at all to feel that they are confined to them, but that they are free to raise any other points they think they should. It was simply done in order to have the arguments conducted in an orderly way. Mr. Desmarais and I thought it might be helpful to the Commission.

THE CHAIRMAN: In the nature of suggestions?

MR. COVERT: Yes.

MR. CARSON: I take it that we will have an opportunity to consider this?

MR. COVERT: I think that when counsel get back to their hotel they will find it in their mail boxes or rooms. In the mean time I shall just hand a copy of it to the

reporter, to be included in the transcript at this stage.

MR. CARSON: I submit that if it is a suggestion, it had better be left out of the transcript.

MR. COVERT: Oh I thought it would give counsel an opportunity to consider the matter during the adjournment, and until the re-hearing.

MR. CARSON: You say we are all getting it in our mail boxes?

MR. COVERT: Yes. But there may be people who are not here who would receive copies of the transcript.

MR. CARSON: It is a suggestion but we are not bound to it, and you may want to hear our views about it when we come back. Very well.

MR. COVERT: The statement reads as follows:

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ARGUMENT BY COUNSEL

1. Counsel should deal specifically with the Order-in-Council P.C. 6033 and express to the Commission their views as to the recommendations which should be made under the various headings.

Before dealing with Section 2, each Province should state definitely:

(a) The economic, geographic and other disadvantages (in precise form) under which it claims to be adversely affected by transportation difficulties.

(b) The anomalies which it says are to be found in the existing tariff of tolls and rates.

2. Counsel should recommend what measures should be initiated in order that the national transportation policy may best serve the economic well-being of all Canada. (This might properly include Counsel's proposal as to what should constitute Canada's national transportation policy.)

3. Counsel should submit the text of amendments to the Railway Act which they believe should be recommended as guidance to the Board in such matters as general freight rate revisions.

This would include their recommendations with respect to:

- (a) Competitive rates;
- (b) International rates;
- (c) The classification;
- (d) Distributing rates and town tariffs;
- (e) Developmental rates;
- (f) Expiry rates;
- (g) Export rates;
- (h) Equalization;

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- (i) Horizontal increases;
- (j) Industrial location (rate relationship);
- (k) Interline rates;
- (l) Level of rates;
- (m) Long and short haul clause;
- (n) Market competition;
- (o) Minimum carloads;
- (p) Mixing privilege;
- (q) Arbitraries;
- (r) Treatment of basic commodities;
- (s) Reparations;
- (t) Segregation of freight and passenger;
- (u) Special rates;
- (v) Transcontinental rates;
- (w) Rate groupings or blanket rates.

In this connection Counsel should indicate what specific amendments, if any, they suggest should be recommended in each case.

4. Counsel should state definitely their views as to the C.N.R.'s submission with respect to revision of the capital structure of that Company.

5. Counsel should state definitely their recommendations with respect to uniform accounting and statistical procedure, giving their specific views as to what their recommendations should be. Included in this should be their opinion on what recommendations, if any, should be made with respect to depreciation accounting, segregation of assets, rail and non-rail and segregation of revenue and other income (rail and non-rail).

6. Counsel should state definitely their recommendations with respect to the C.N.-C.P. Act, including any

amendments which they may suggest to that Act or to the Railway Act.

7. Counsel should submit any amendments which they suggest to the Railway Act and specifically their views on the following:

(a) Amendments proposed by the International Railway Labour Organization with respect to Section 179 - partial abandonment, Section 250 - restricted side clearance, and Section 267 - reflectorized signboards;

(b) Sections 260, 262 and 264 - the C.N.R.'s proposals with respect to grade separation;

(c) The C.P.R.'s proposed amendments with respect to the same matter;

(d) Section 351 of the Railway Act and Section 80 of the Post Office Act with respect to mail and military rates as proposed by the C.P.R. and the C.N.R.;

(e) Section 52 with respect to the abolition of appeals to the Governor-in-Council as proposed by the C.P.R.;

(f) Section 325(5) - Crow's Nest Pass rates;

(g) Reparations;

(h) Specifically they should deal with the proposed amendment suggested by the Canadian Manufacturers Association or should submit a draft section in any case where they urge that there should be a reparations section in the Railway Act;

(i) Any amendment to the Railway Act dealing with the revision of the powers and duties and constitution of the B.T.C.

In any case where they suggest amendments to the Railway Act the definite form of the amendment should be

included in their argument.

8. Counsel should also deal with any proposed amendments (including draft amendments) to railway legislation generally. This would include specific recommendations with respect to:

- (a) Agreed charges;
- (b) M.F.R.A.;
- (c) National transportation policy - co-ordination of transportation agencies.

9. Counsel might also express their views on the following miscellaneous subjects:

- (a) Amalgamation, unification or Government ownership;
- (b) Should air and coastal shipping come under the jurisdiction of the B.T.C.;
- (c) Ferry service to P.E.I.;
- (d) Treatment of Hudson's Bay Railway;
- (e) Regulation of trucking;
- (f) Prohibition of trucking through national parks;
- (g) Trans-Canada Highway;
- (h) Chignecto Canal;
- (i) Advisory Committees for National Harbours Boards;
- (j) Quality and efficiency of service in certain regions;
- (k) Rate base and rate of return;
- (l) C.P.R. as the only yardstick;
- (m) Feed Grain Assistance.

10. It is preferable that argument on the above matters should be dealt with in the above order and anything else should be treated under the heading of mis-

5 cellaneous.

11. Provincial Counsel should collaborate and allot to one Counsel certain items on which they are in agreement, with a view to having limited argument on such items, e.g., assuming that Provincial Counsel were agreed on uniform accounting, this would be dealt with by one Counsel only, or, if three Counsel took one view and three another view on the same subject, one Counsel would argue for the one group of three and another Counsel for the other group, but would express in opening on the subject what Provinces' views he was unanimously presenting.

12. Counsel should state the recommendation, or the amendment, or the proposal, or whatever it may be, and then indicate where the transcript or brief developed the matter. In other words, there should not be a repetition in full of all the arguments pro and con but simply what is recommended and it would only be if the Commission asked for elaboration that the argument would then be extended.

13. A time limit is to be placed on each Counsel, one day each for Provincial Counsel, which would be eight days in all. This time limit may be divided among them as they see fit. The Railways will be given eight days to be divided among them in whatever proportion they agree; if there is no agreement, then four days each. Provincial Counsel will then have the right to reply, limited to two days in all, to be divided among them as they agree, otherwise equally.

14. It is anticipated that there may be Counsel, other than those representing the Provinces and the Railways, who may wish to present Argument, e.g., the Canadian Automotive Transportation Association, the

1. The first

2. The second

3. The third

4. The fourth

5. The fifth

6. The sixth

7. The seventh

8. The eighth

9. The ninth

10. The tenth

11. The eleventh

12. The twelfth

13. The thirteenth

14. The fourteenth

15. The fifteenth

16. The sixteenth

17. The seventeenth

18. The eighteenth

19. The nineteenth

20. The twentieth

21. The twenty-first

22. The twenty-second

23. The twenty-third

24. The twenty-fourth

25. The twenty-fifth

26. The twenty-sixth

27. The twenty-seventh

28. The twenty-eighth

29. The twenty-ninth

30. The thirtieth

31. The thirty-first

32. The thirty-second

Wheat Pools, etc. It has been decided that a maximum of two hours will be allotted to each of such Counsel. It is considered that such Counsel may desire to present their Argument before Provincial and Railway Counsel so that after presentation they may leave, whereas a different situation pertains to Provincial and Railway Counsel. Any such Counsel desiring to present Argument should indicate as soon as possible to the Commission if they wish to be heard and the approximate time they will require.

15. During the Argument Counsel are not to interrupt Counsel presenting Argument and the only interruption permitted will be from the Commission itself.

16. It will be noted that Counsel have been asked to state the economic and geographic and other disadvantages. This applies to Provincial Counsel only. Presumably, however, Railway Counsel will want to deal with their views on what recommendations, if any, should be made with respect to these matters.

17. It is anticipated that the order of Argument will be as follows:

- (a) Counsel for other than Provinces and Railways;
- (b) Provincial Counsel in the following order:
 - Manitoba, Saskatchewan, Alberta, British Columbia, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland;
- (c) Canadian Pacific Railway Company;
- (d) Canadian National Railways;
- (e) Reply by Provinces in the above order.

Frank M. Covert,
Counsel.

FMC:AP
December 16, 1949.

MR. COVERT: Mr. Desmarais has also suggested that I might point out to counsel that this might give them some assistance and enable them to prepare their arguments which are to be reached at the conclusion of the evidence.

MR. O'DONNELL: We can come to that in due course, I presume?

MR. CARSON: We will have to see how much life is left in us at the conclusion of the evidence.

MR. FRAWLEY: Do you know any place to go to get some new life?

MR. CARSON: I now come to this next subject of Alberta coal. I do not know whether your lordship wants me to begin it.

THE CHAIRMAN: Will it take quite a while?

MR. CARSON: A little while.

THE WITNESS: It will take half an hour..

THE CHAIRMAN: How long?

MR. CARSON: Mr. Jefferson reminds me that it will take half an hour.

MR. O'DONNELL: It is a large field, that coal field.

THE CHAIRMAN: We will go on then. You had better begin, Mr. Carson.

MR. CARSON: Now, the subject of Alberta coal.

THE CHAIRMAN: Where is this in your brief?

MR. CARSON: I am lost for a minute. I will give you the page. It is page 96. It commences with page 96 and runs over to page 100 in Part 1.

MR. CARSON: Now, Mr. Jefferson, without reviewing in detail the history of the rates on Alberta coal to Ontario points, would you please say if the rate of \$8 per ton, established following the discussions which took place between representatives of the Dominion Government the Alberta Government, the coal shippers, and the railways,

as referred to at the bottom of page 99 and the top of page 100, is now in effect?

A. No sir. The present rate is \$8.33 per net ton.

THE CHAIRMAN: Is that from one zone to another zone?

MR. CARSON: Q The Chairman asks if that is from one zone to another zone?

A. That is the rate from all Alberta mines.

THE CHAIRMAN: Q. To where?

A. Including the Eastern British Columbia mines, to points in Ontario.

Q. All points in Ontario?

(Page 14119 follows)

A. All points in Ontario. The rate of \$8 was increased by 25 cents effective April 8, 1948, following the decision of the Board in the 21 per cent case, and by 8 cents effective October 11, 1949, as a result of the interim order of the Board dated the 24th of September, 1949.

MR. CARSON: Do you know the basis by which that rate of \$8 was determined?

THE CHAIRMAN: Pardon me; I wanted to ask something about page 96. In the first line at the top of the page you say:

"Earlier in this submission reference was made to a non-compensatory rate known as the 'At-and-East' grain rates."

MR. CARSON: Yes.

THE CHAIRMAN: Then you say, "There is another competitive rate. . ." Is that word "another" properly employed there?

MR. CARSON: Q. His lordship points out that in the brief you say:

"Earlier in this submission reference was made to a non-compensatory rate known as the "At-and-East" grain rates. There is another competitive rate that is also non-compensatory and that is the rate on Alberta coal to Ontario points."

The "at-and-east" rate is a competitive rate?

A. Yes.

THE CHAIRMAN: You consider it a competitive rate?

MR. CARSON: Yes, but I did not want to answer without Mr. Jefferson telling me. I thought it was a competitive rate.

MR. FRAWLEY: Is the Alberta coal rate a competitive rate?

MR. CARSON: Q. Mr. Frawley wants to know if the Alberta coal rate is a competitive rate?

A. Well, I would think it was, any rate as low as \$8.33 from Alberta to Ontario, and everyone knows the rate was made with a view to encouraging the movement of coal from Alberta to Ontario in competition with coal from the United States to Ontario.

MR. FRAWLEY: Q. You mean it is market competition?

A. That is competition.

Q. The "at-and-east" grain rate is water competition?

A. Well, the "at-and-east" grain rate is water competitive in the sense that the rate from Buffalo to New York is competitive with ^{the} canal rates, and the rate from the Georgian Bay ports to West Saint John and Halifax is the same as from Buffalo to New York.

THE CHAIRMAN: I think the point arises from the fact that you say there, "The 'At-and-East' grain rates were competitive." Perhaps you mean they were in their origin.

MR. CARSON: The "at-and-east" grain rates were competitive because of American carrier competition.

THE CHAIRMAN: Do you mean they are competitive?

MR. CARSON: Q. Are they competitive today?

A. Yes.

Q. Where we say they were competitive, they were competitive in their origin; is that it?

A. It may be the language is not quite right there. We are talking about something that was competitive because of American carrier competition, but they are still competitive.

Q. And they have been dealt with earlier in the

submission?

A. Earlier in the submission; we dealt with that yesterday.

THE CHAIRMAN: That is what you mean by saying "were"?

MR. CARSON: Yes.

THE CHAIRMAN: Then you consider both these rates as competitive, and as still competitive, both the grain rate and the coal rate?

MR. CARSON: Yes. His lordship has asked me if we consider the "at-and-east" grain rate and the Alberta coal rate were competitive and are still competitive?

THE WITNESS: Yes, sir.

THE CHAIRMAN: An ordinary competitive rate is one you fix yourselves and you can get rid of whenever you want to, whereas the Crows Nest rates are not in that position?

MR. CARSON: The Alberta coal rates?

THE CHAIRMAN: No, the Crows Nest grain rates;

THE WITNESS: The Crows Nest grain rates are not published as competitive rates.

MR. CARSON: The "at-and-east" rates are not the Crows Nest rates.

THE CHAIRMAN: Oh, yes, I am altogether in the wrong. I just saw the words "grain rates" there. I see now.

MR. CARSON: It is "at-and-east".

MR. FRAWLEY: If it had been the Crows Nest grain rates I would not have objected to my friend talking about them in this connection.

THE CHAIRMAN: I just saw the words "grain rates". I had underlined them and I jumped to that conclusion. This is taking it to the Atlantic seaboard.

COMMISSIONER ANGUS: Q. There is one question related to what we were discussing a few minutes ago. Are the various rates that you consider non-compensatory used in making the system average to decide whether other rates are compensatory?

A. Yes, sir.

MR. CARSON: Oh, yes.

COMMISSIONER ANGUS: Is that a good practice?

MR. CARSON: Q. Dr. Angus wants to know if that is a good practice. For instance, in answer to Dr. Innis a little while ago you told him you included the revenue from the Crows Nest rates, as an illustration, to arrive at this system average. Dr. Angus is asking whether you regard that as good practice?

COMMISSIONER ANGUS: It gives you the system average, but does it give you a useful average for deciding whether other rates are compensatory?

THE WITNESS: Well, I don't know how you could eliminate the Crows Nest grain traffic in assessing or determining your system car-mile average earnings. It would be a tremendous task because you would have to re-audit every bill to eliminate that traffic.

COMMISSIONER ANGUS: I can see it would be difficult, but I was wondering if it detracts at all from the value of the measure.

MR. CARSON: Q. Dr. Angus was wondering whether you thought it detracted at all from the value of the measure?

A. If it detracted --

Q. If it detracted at all from the value of that average as a measure or yardstick on whether a rate is compensatory or not?

A. It might well be that if the Crows Nest grain

traffic was not in the figures in determining the average car-mile earnings your car-mile earnings on other traffic would be higher, but we have no way of eliminating it, and all we can use is the yardstick of our system car-mile earnings. When that yardstick is used -- I was going to take something else, but I have forgotten what it was.

(Page 14124 follows)

COMMISSIONER ANGUS: I suppose really the argument is that, since the traffic as a whole is compensatory, the average must also be compensatory.

MR CARSON: That is the way it struck me, but I did not know whether I was putting something that my friends understood better than I did.

THE WITNESS: What I was going to add, Dr. Angus, was this, that we use the averages for the previous year or the previous month. We know that that does not include the level of rates we need because we need more money, like we do at the present time. In normal times the yardstick is all right, but in times of need for increased revenue you might say it is not right, but we let the need for increased revenue take care of itself when we get the decision on applications for increased rates in general, which would include the rates on any commodity with which we were dealing today.

THE CHAIRMAN: Well, I think now we had better adjourn.

---At 3:58 p.m. the Commission adjourned, to meet again at 10:30 a.m., January 30, 1950.

I have the honor to acknowledge the receipt of your letter of the 10th inst. and in reply to inform you that the same has been forwarded to the proper authorities for their consideration. I am, Sir, very respectfully,
Yours obedient servant,
J. H. ...

I am, Sir, very respectfully,
Yours obedient servant,
J. H. ...

A.R.

Canada
ROYAL COMMISSION
ON
TRANSPORTATION

EVIDENCE HEARD ON

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ROYAL COMMISSION ON TRANSPORTATION

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EXHIBIT No.147: Livestock Registration Certificate
with shipping voucher attached.

ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO,
MONDAY,
FEBRUARY 6, 1950.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN
HAROLD ADAMS INNIS - - - COMMISSIONER
HENRY FORBES ANGUS - - - COMMISSIONER

G. R. Hunter
Secretary

P. L. Belcourt
Asst. Secretary

COUNSEL APPEARING:

F.M. Covert, K.C.	}	Royal Commission on Transportation
G.C. Desmarais, K.C.		
H.C. Friel, K.C.)	Canadian National Railways
I.D. Sinclair)	Canadian Pacific Railway
C.D. Shepard	}	Province of Manitoba
		Province of Saskatchewan
		Province of Alberta
		Province of British Columbia
J. Paul Barry	}	Province of New Brunswick
		Province of Nova Scotia
		Province of Prince Edward Island
F.R. Hume	}	Canadian Automotive Trans- portation Association
M.L. Rapoport		

P.

MONDAY, FEBRUARY 6, 1950

MORNING SESSION

THE CHAIRMAN: Well, Mr. Covert?

MR. COVERT: The first submission is that of Mr. E. J. Young.

EDWARD JAMES YOUNG - Called.

Examined by Mr. Covert:

Q. Mr. Young, you might give your full name to the reporter.

A. Edward James Young.

Q. And you live ----?

A. In Toronto.

Q. And your occupation, Mr. Young?

A. I am a farmer.

Q. And you were formerly a director of the Canadian National Railways?

A. For some years I was.

Q. And you have a brief. Would you like to read it?

A. Yes, I will read it.

THE CHAIRMAN: You were formerly in Saskatchewan, were you?

A. Yes. I might explain, gentlemen, that though I was for a while a director of the C.N.R., I have not consulted any official of any railway company in regard to this brief, and though I have been farming for many years I have not consulted any official or anybody connected with any farmers' organization. The views here are simply the views I hold as a citizen of Canada.

Gentlemen:-

Two things are necessary to preserve the solvency of our railways: (1) Canada herself must be prosperous and (2) the railways must share in that prosperity. Today Canada

is more prosperous than ever before; but the railways are finding it hard to make ends meet. This is unfortunate, for financially embarrassed railways cannot function efficiently; and without efficient railway service Canadian prosperity cannot long continue.

The reason why the railways have not been able to share in the general prosperity is that they have not sufficient control over their own affairs. Their operating costs have grown out of all proportion to their earnings and they are powerless to do anything about it. They are powerless because they have no control over either the rates they charge or the expenses they incur.

The Board of Transport has authority over the services the railways render and the rates they charge; but it is not responsible for their solvency. Their wage costs are at the mercy of the trade unions, which seem to be quite indifferent to matters of solvency. The railways themselves seem to have no power except to do as they are told.

Here are a few examples of their helplessness in the management of their own affairs:-

(1) The Board of Transport has repeatedly ordered them to get rid of their old wooden passenger cars and replace them with something safer for the public to ride in. Yet, within the last year, railways have found it necessary to refrain from ordering new equipment because they couldn't afford to buy it.

(2) Shortly after the war broke out, operating costs began to rise; but, for a while, the increase was more than offset by the increased volume of business and the railways enjoyed a spell of prosperity. Soon, however, costs were rising faster than earnings, and in 1946 the railways found it necessary to apply for authority to raise their

rates by 30 percent. After long delay, during which costs continued to rise, they were granted partial relief in a 21 percent. rise in rates on some, but not all of their traffic. But even this insufficient relief met with strenuous opposition in the country, the governments of seven provinces combining their forces to fight it.

(3) In some parts of the country truck and water competition had forced the railways to reduce some of their rates below those authorized by the Transport Board. When a change in the competitive position made this reduction no longer necessary, the railways raised the rates to the authorized levels. But the Board intervened and ordered the lower rates re-instated.

(4) In 1948 sixteen unions, representing approximately half of the total number of railway employees in the country, applied for wage increases of 35 cents an hour. The railways replied that they had no sources of revenue from which they could hope to pay such demands. A Conciliation Board confirmed their contention and recommended an increase of 7 cents an hour as the highest they could justify. In spite of this finding the unions decided to enforce their demands in full, by strike action. A date was set on which the strike was to take effect and all the people of Canada were to be deprived of railway service until the railways yielded.

Rather than see that happen, the Government intervened and the Minister of Labour finally persuaded the unions to accept a 17-cent increase retroactive to March 1st, 1948. The railways had no choice but to submit and pay the bill.

The settlement averted a strike, but it cost the C.N.R.

\$93,555,000.00 in increased wages during the year 1948, and the C.P.R. a proportionate amount.

Encouraged by their success, these same unions were back the next year, 1949, with new demands for further wage increases plus a 40-hour week. These new demands are now before a Conciliation Board. But the unions still have the same weapon in their hands; and the railways are as helpless as before.

It is hard to see how anything can be done to preserve the solvency of the railways as long as they are exposed to attacks of this nature. No matter what is done to increase revenues, the unions can take it all.

It will be seen from the above examples how helpless the railways are in dealing with their problems. It is not contended here that they should have complete control in matters of freight rates and wage rates; but it is suggested that no business could hope to survive if its management had as little control as the railways have over matters of such vital importance.

Looking back over the events referred to above, it would seem that the request of the railways for higher freight rates was necessitated by the rapid rise in operating costs and might have been treated as an emergency. If immediate relief had been granted, on^a temporary basis, to be withdrawn as prices returned to normal, there would probably have been little opposition from the public. But today, with prices of our export products falling, it would be very difficult to get farmers and other exporters to agree to higher freight rates that are likely to be permanent while their own incomes are declining.

How to keep railway operating costs down to a normal relationship with possible earnings is a problem. The largest item of cost is wages. The unions seem to have

it in their power to enforce whatever wage demands they choose to make, regardless of the value of their services, or the suffering their actions might inflict on others.

In all these matters the unions have acted within their legal rights. The question is: What are these legal rights, how were they acquired, and who was deprived of his legal rights in order to make them possible? There must be something wrong with laws and practices that enable one group of private citizens, responsible to no one but themselves, to hold all the people of Canada as hostages for the performance of another group.

The most important things to remember in any study of our railway problem are, (1) that Canada, more than most countries, depends for her prosperity on her export trade; (2) that we cannot control the prices we receive for our exports, but must sell them for whatever the world will pay; (3) that every addition to the cost of transporting our exports must come out of the pockets of those Canadians engaged in producing them; and (4) that if we would keep our own people employed, all our domestic prices and costs, including railway costs, must be kept in reasonable harmony with the prices we receive for our exports. If we forget these things or fail to follow the course they indicate, neither Canada nor her railways can prosper.

CROSS EXAMINATION BY MR. SHEPARD

Q. Mr. Chairman, I have a few questions to ask Mr. Young if I may. I think perhaps out of fairness to you, Mr. Young, I should tell you that I am appearing for the Province of Manitoba before this Royal Commission and because there is activity in another court room this morning, I am also acting for the Provinces of Saskatchewan, Alberta, and British Columbia. The first page of your brief, Mr. Young, in the first paragraph, the fifth line, starting on the fourth line actually, this sentence appears:

"This is unfortunate (referring back to the first part of your statement) for financially embarrassed railways cannot function efficiently;"

I presume you are not meaning to imply there that a financially unembarrassed railway would necessarily function efficiently?

A. It does not follow but if it does not function efficiently, then I think it would soon be financially embarrassed.

Q. My only point in questioning that statement at all is that financial stability of a railway does not guarantee efficient operation of it necessarily?

A. No.

Q. It may or it may not. Then, in the second paragraph you are referring to railway operating costs and your second sentence is:

"Their operating costs have grown out of all proportion to their earnings and they are powerless to do anything about it."

I suppose you would be willing to qualify that to perhaps a limited extent -- "powerless to do anything

about it". Actually the railways have some control over some elements of their cost?

A. Powerless to do anything much about it, or "anything effective" would be a better word.

Q. The fact is this, the railways are free to take advantage of technological advances which should result in greater efficiency and reduced operating cost?

A. Not altogether free; it costs an awful lot of money to modernize a railway -- much more than the railways have available.

Q. That is your point?

A. Yes.

Q. And it is a fact that wages do constitute about fifty-seven per cent of their operating costs and that is the prime matter you have reference to?

A. Yes.

Q. Then, the next sentence:

"They are powerless because they have no control over either the rates they charge or the expenses they incur."

I was going to suggest to you that actually the control of the Board of Transport Commissioners over rates is not all-inclusive. There is a substantial amount of traffic carried by the railways at rates that are not under the jurisdiction of the Board of Transport Commissioners?

MR. SINCLAIR: What are they?

MR. SHEPARD: The competitive rates.

MR. SINCLAIR: I submit that if my friend, Mr. Shepard, is going to say that, that is not in accordance with the Act. The only rates not under control of the Board are the grain rates -- the Crow's Nest Pass rates.

MR. SHEPARD: I agree with my friend, Mr. Chairman, but it is the way in which the competitive rates fit in. The fact is, though that the competitive rates have no floor but they are subject to the ceiling of the standard rates.

MR. SINCLAIR: They are subject to the Board's power to prescribe rates.

THE CHAIRMAN: No doubt Mr. Young understands the situation. What you mean is this, that the Board fixes ceiling rates and they are free to act below that ceiling rate?

A. Yes, that is the only way.

Q. They cannot make the rates any higher, of course, but they do make them lower. You know that, Mr. Young?

A. Yes. I think, Mr. Chairman, Item 3 on Page 2 deals with that:

"In some parts of the country truck and water competition had forced the railways to reduce some of their rates below those authorized by the Transport Board."

But when the competition was removed and the railways tried to bring their rates back to the ceiling authorized by the Board, they were forbidden to do so.

MR. SHEPARD: That was some time ago?

A. A year ago last fall, I think.

Q. And in fact, the competitive rates were increased since the 21 per cent Judgment was out?

A. I believe they were. At the time it was a thing which the law said they could do, but the Board forbade them to.

Q. That is something that did occur but is not now current?

A. It is not in existence at the present moment, I do not think.

Q. Then, at the bottom of Page 1, Mr. Young, you make reference in sub-paragraph (1) there to the repeated order of the Board to remove old wooden passenger cars and replace them with something better from a safety standpoint?

A. Yes.

Q. Now, I presume you would agree with me that the railways have freedom of action subject to the difficulty of financing which I think you and I both recognize, to improve their equipment, improve their track so that they can handle freight more efficiently and perhaps as a result in the long term cut down operating expenses in that way?

A. I think you will find that the railways are doing everything they possibly can in that line. Their limitation is money.

Q. I agree with that but my point is that the fundamental restriction of the Board of Transport Commissioners is with regard to safety. In other words, it fixes a minimum standard of service from a safety standpoint but it does not restrict the railways in acquiring a higher standard of service which will produce more efficient operation?

A. Oh no, so far as the Board is concerned, the more improvements the railways make, the better, but the Board does not take any responsibility for putting them in a position to do it.

Q. Now, at the top of Page 2, actually the sentence starts at the bottom of Page 1, you say:

"Yet, within the last year, railways have found it necessary to refrain from ordering new equipment because they couldn't afford to buy it."

Do you mean that they have not ordered any new equipment?

A. No, I would not say that; they have not ordered as much as they had planned to order.

Q. It may be a matter of interest to the Commission. On Page 23 of the 1948 Canadian Pacific Railway Annual Report there is an item which indicates additions and betterments to railway rolling stock and inland steamships, totalling something over \$43,000,000 in that year, and in the 1948 Canadian National Railways Annual Report at Page 20 under the sub-heading of "Equipment Purchased or Built" something over \$49,000,000 in that year and the 1949 figures, unfortunately, are not available, but I understand they are not very much different from the 1948 figures and perhaps my friends in the railways can correct me if that is not so.

A. The report does not indicate how much they would like to have done?

Q. No. Then, on Page 2, Mr. Young:

"After long delay during which costs continued to rise, they (that is the railways) were granted partial relief and a 21 per cent increase on rates on some but not all of their traffic."

Now, are you referring to the grain rates there?

A. In part.

Q. And the competitive rates?

A. Yes.

Q. Of course, the competitive rates, that is up to the railways to increase those or not as they see fit or as they think is possible?

A. Yes.

Q. Then, in the next sentence you say:

"But even this insufficient relief met with strenuous opposition in the country, the governments of seven provinces combining their forces to fight it."

I just wanted to ask you, Mr. Young, whether you had made a study yourself of the 21 per cent Judgment and the province's petition to the Governor-in-Council and the Order-in-Council referring the judgment back to the Board for review?

A. A study -- no.

Q. Have you read all those three documents?

A. No.

Q. Because I wanted to suggest that the basis of the provincial appeal from that Judgment was not primarily the 21 per cent, but the principles or the lack of principles upon which the Board proceeded in arriving at that amount?

A. Yes, in the meantime, though the railways are running in the red and they cannot get any relief apparently until these other matters you refer to are dealt with, but this was an emergency in which immediate relief was necessary if the railways were to be kept solvent.

Q. Your point might perhaps be made thus, Mr. Young -- if there was machinery provided for a quick interim disposition of an emergency rate application. Is that what you have in mind?

A. Yes, and of course, I do not know the problems that concern the Board of Transport Commissioners, but my recollection is that from the time the application was submitted until a decision was arrived at, ^{it} was about seventeen months, which is a long time to be running in the red.

Q. It is, I agree. On Page 2, paragraph 3, Mr. Young, I think probably we have covered that but the last sentence there says:

"The Board intervened and ordered the lower rates reinstated."

What you have reference to is what actually transpired at the 21 per cent hearing in that paragraph?

A. That was apart from the 21 per cent hearing. The railways felt that they had a right to charge up to the ceiling rates authorized by the Board. The competition was such that in certain instances they could not do it. When the competitive position changed and they were free to do it so far as competition was concerned, they considered they had a legal right to do it and did it without reference to the Board and the Board said: "No, you cannot do that" and ordered them to reinstate the old rates.

THE CHAIRMAN: How long did that condition go on?

MR. SHEPARD: I think it has been put on the record, Mr. Chairman. My recollection is that continued until the disposition of the judgment in the 21 per cent case and I got a nod of assent from my friend Mr. Sinclair, so apparently that is so.

THE CHAIRMAN: And ,then the Board's prohibition was lifted?

MR. SHEPARD: Yes sir. Mr. Young, I would be interested to know where you obtained the figure on the top of Page 3 of your brief of the increased cost of wages to the Canadian National Railway in 1948 of \$93,555,000?

A. From the Annual Report of the Canadian National Railway. You probably have it on your desk.

Q. I have a copy of the Report here.

A. You will find it there; I cannot tell you the exact page.

Q. I have not got the exact figures. It might be of interest, Mr. Chairman, if the railways would put those figures on the record here. I know they are a matter of record on the rate case.

THE CHAIRMAN: What figures are you asking for?

MR. SHEPARD: The figures for the cost of the 17 cents an hour wage increase in 1948. My recollection is that the Canadian National Railway figure shown in Mr. Young's brief is substantially in excess of what the cost was.

MR. FRIEL: It all depends what year he is referring to. Do you mean for the year 1948 over the year 1939, for instance?

THE WITNESS: Yes, that is the increase and that was made for only ten months of the year.

THE CHAIRMAN: What two years are you comparing there when you give the figure of \$93,555,000?

THE WITNESS: A. The previous year -- the year 1948 compared with 1947.

Q. You say that this increase in wages alone cost the Canadian National Railways \$93,555,000 more than it had the year previous?

A. Well, you still have to make allowance for differences in numbers of employees but this is the difference that was traced directly to the award.

Q. Do you dispute those figures?

MR. FRIEL: I have not got the figures with me, Mr. Chairman, but I do not think he is far out.

MR. COVERT: Mr. Chairman, the Report of the Canadian National Railway for 1948 at Pages 6 and 7 reads:

"The following summary shows in round figures the effect on the operating results of the system of the changes in the wage and

price levels in 1948 as compared with 1939." And then they have a column: "Lines in Canada" and "Lines in U.S." and "Additional Cost Due to Increase in Wage Rates \$93,555,000", which is the figure which Mr. Young gives. That is in comparison with 1939.

THE CHAIRMAN: Not 1947?

THE WITNESS: Is that 1939? It was not my understanding of it.

MR. COVERT: I expect that is where you got your figure, is it?

A. Yes -- "Additional cost Due to Increase in Wage Rates, \$93,555,000 in 1948 compared to 1939." I guess you are right; my mistake.

MR. SHEPARD: Mr. Sinclair has just handed to me, Mr. Chairman, and I think it might be well to read it, an extract from the 1948 Canadian Pacific Railway Report:

"The general wage increase of 17 cents per hour which was made effective March 1, 1948 added approximately 22.5 million to expenses while changes provided for in agreement with employees in respect of wages, vacations and working conditions increased pay rolls by \$2,000,000."

So it is about \$24,500,000 more cost in 1948 which was not a complete year but ten months of the year for the Canadian Pacific Railway.

A. I will have to correct those figures in the brief.

Q. Well, I think the record is clear now, Mr. Young. It was just a matter of clearing that up. In the fourth paragraph on Page 3, you say:

"It is not contended here that they (the railways) should have complete control in matters of freight rates."

And then you go on to suggest that the railways have got insufficient control to survive. I wondered if you had any suggestion as to how much control the railways should have and just how it should be done?

THE CHAIRMAN: That is over freight rates and wage rates?

MR. SHEPARD: I was only dealing with freight rates myself at the moment, sir.

THE CHAIRMAN: Mr. Young mentioned both.

THE WITNESS: I do not think you could give the railways complete control over freight rates because they might set rates that were ruinous to traffic and have the traffic ruined before they were aware they were too high or they might set rates that were at variance with national policy. The rates should still be under the control of the Board of Transport Commissioners but the Board of Transport Commissioners should assume some responsibility for keeping the railways solvent.

MR. SHEPARD: Have you any suggestion as to how that can be done, Mr. Young, with those qualifications you have just expressed?

A. Well, I do not know that I could go into details of it.

THE CHAIRMAN: Well, Mr. Young, if you can tell us what principles you think the Board ought to apply when dealing with freight rates in preference to the principles that they apply now which you apparently do not think satisfactory, it might be of use to us to know that?

A. The Board of Transport Commissioners should regulate rates with regard to what the traffic will bear and the solvency of the railways and then, in cases where the national interest requires the railways

to render uneconomic service, they should be allowed to charge rates high enough to cover the cost of such services and the government itself should pay a portion of the charges. That is to say, there are services demanded of the railways that are not economic, and if they charge uneconomic rates for them, the traffic would not stand it, but yet in the national interest they want to keep that traffic going. I think such charges as that should be paid by the government and the railways should be allowed to charge an economic rate for it.

Q. Are you referring to both railways -- the Canadian National and the Canadian Pacific?

A. Yes.

MR. SHEPARD: And I wondered what comments you had, if any, on that same paragraph because, as the Chairman has pointed out, Mr. Young, you refer also to control of wage rates. Have you any suggestions as to what additional control the railways should have over that matter?

A. Yes. Taking the case cited here, we find that those sixteen railway unions were strong enough to force the government to come to terms with them. Now, I hold that no organization should be allowed to exist within a state that can do that. The government must be the supreme authority and no organization not responsible to the people should be allowed to be so powerful.

Now, how did the railways get that power -- the unions? It is not inherent in themselves; they have been assisted to build up their strength by some laws and practices that we have adopted of recent years. We have a law which says that certain boards shall recognize certain unions or a certain union as the sole bargaining agency in a given industry.

That union must be the largest union in the industry but once it is recognized as the sole bargaining agency in that industry, by that act we have made that union much more powerful than it naturally is.

Then, we have what we call the Rand Formula, which is not a part of the law but is being carried out in practice, which says that employees who do not belong to the union which is the sole bargaining agency, must not be forced to join it but they should be forced to contribute to its fund.

(Page 14142 follows)

There again we build it up. Then we have something that is not mentioned --

THE CHAIRMAN: Q. Is that formula being followed?

A. In instances I believe it is. I have heard of strikes being settled by that formula; I think there was one settled in Windsor that way. The formula was first used there in the automobile strike. Then we have something that is not mentioned either in the law. We have what we call the closed shop which permits a union in one shop to forbid anyone to work in that shop unless he belongs to that union. These things build up the strength of the union much more than they should be, and these are things which made these sixteen unions so powerful that they could say to the Government of Canada, "Unless you force the railways to come to our terms we will starve the people into submission." I submit that should not be tolerated in a free country.

Q. What would you do about it?

A. What to do about it? One thing we could do is to bring unions under the Combines Act.

Q. What?

A. Trade unions under the Combines Act. If ever there was a case of a combination in restraint of trade surely that was a case. We never hear of them being brought under the Combines Act.

COMMISSIONER INNIS: Q. Do you regard labour as a commodity?

A. I do not care whether or not it is a commodity. Labour insists on treating itself as a commodity. It insists on selling itself to the highest bidder. It seems to me that if these special privileges which are granted to labour -- if we maintained law and order at

times of striking unions would not be so powerful that they could defy the government, and of course if the Combines Act were available.

THE CHAIRMAN: Q. I must say I do not see what comparison you can make between the situation you have depicted to us and the Combines Act. The Combines Act, as the name expresses, prevents a certain number of companies getting together and agreeing to fix prices at high levels. How do you compare that with trade unions dealing with their own members only?

A. They deal with their own members only within the union, but then as a body --

Q. What you mean is there should be some law to prevent them; that is what you mean -- if not the Combines Act?

A. Yes, we will put it that way.

Q. How would you prevent strikes then?

A. I would not prevent strikes.

Q. Well, that is the ultimate weapon, is it not?

A. Yes, it is the ultimate weapon, and I would not deny labour the right to strike, but I would insist on them maintaining law and order while they strike. We have had examples in this country of men going on strike, tying up all traffic on the streets, forbidding men to enter their own premises, forbidding private citizens to go about their own business, and nothing done about it. Very often the strike is settled and one of the conditions of the settlement is that there be no prosecutions for lawlessness.

Q. Of course the problem we have is how to keep the railways running; how would you keep them running?

A. You mean how would we keep them running if they did not strike?

Q. If they did strike?

A. Let us conceive such a thing happened. This country can easily be starved into submission, and whether the demands of the railways are just or unjust --

Q. You mean the unions?

A. Yes, the demands of the unions; whether they are just or unjust they are still in a position to force them on the people or on the railways because no government can see the people starve. That is the position they are in. I think everyone will agree that that should not be.

Q. How would you stop it? If you have any suggestion I should like to hear it.

A. Competition. We are very much dependent in this country on the railways. Trucks offer only partial competition. There is always the possibility of all forms of transportation getting together, and if the railways and the trucks were all in one and the railway unions and the truckers' unions all in one we would be in a worse position than ever. It would be a good thing for the country if there was sufficient transportation of other forms, truck and water, whatever you can get, to supply the essentials of life even if we did have a railway strike that could not be settled, but I do not think the railway unions would carry on a prolonged strike if they did not have this great power in their hands. As I said, the law has made it practical to have one union in the shops where there might have been two or three. The laws have required all railway men to join the union, at least the laws and practices together. I say that is too much power to allow them to hold, and if they were not so united there would be a much better chance of getting a settlement. If

there were some outside the union who were willing to work those on strike would be more apt to come to terms and would be more ready to make a settlement.

MR. SHEPARD: Q. Mr. Young, in the fifth paragraph on page 3, the second sentence, you are referring to the initial 30 per cent rate increase application by the railways, and you say:

"If immediate relief had been granted, on a temporary basis --"

and so on. I wanted to discuss with you this proposition. Let us assume that immediate relief had been granted at the time you suggest it should have been granted. Let us assume that the railway unions had been negotiating wages at that time or shortly after, which in fact they were. Would they not have been in even a better position to perhaps get even more of an increase than they did because of the improved revenue position of the railways which in turn might have resulted in a higher wage increase and no improvement in the net operating position of the railways?

A. My recollection is the application for the 30 per cent increase was to cover wage increases that had already taken place.

Q And rising costs of materials?

A. Yes, rising costs of materials, and this long delay in getting a settlement on that question brought this other demand for an increased rate to the fore at the time, but you see if the railways had been assured they were going to get that 30 per cent or had received it it would have been easier. I believe that if the railways were free to get the rates they wanted they would be tempted to follow the line of least resistance and give the men everything they asked for in order to preserve

peace and goodwill which very often would result in destroying traffic.

Q. And would not improve the net operating position of the railways?

A. No.

Q. Then on page 4 of your brief, Mr. Young, the phrase following No. 4:

"and that if we would keep our own people employed, all our domestic prices and costs, including railway costs, must be kept in reasonable harmony with the prices we receive for our exports."

A. Yes.

Q. Are you suggesting there that freight rates should go up and down with the variation of export commodity prices?

A. No.

Q. I wondered what you meant by that?

A. They should, broadly speaking, yes, but commodity prices fluctuate every day, and railway rates cannot fluctuate every day. They cannot be allowed to, but they should be in reasonable harmony. Take, for instance, the Crows Nest rates. There have been times when those rates were adequate, and there have been times when they were not.

Q. From the railway standpoint?

A. From the railway standpoint, yes. During the first world war when the price of wheat went up to something over \$2 a bushel those rates were set aside and there was not very much opposition to it, and they were restored after the emergency was over. My recollection is that the farmers had quite a struggle to get them restored, but they were restored. During this world war the price of wheat has not gone so high, but the rates

have been rigid.

THE CHAIRMAN: Q. The rates what?

A. Have been rigid; the Crows Nest rates have been rigid. Where I speak in the paragraph you referred to a moment ago about granting emergency relief that was done in the first world war and on the understanding it was to be temporary. The railways did not ask for temporary relief because they figured the present increase in costs was going to be permanent. They did not figure on any return to normal, but whether there is or not, I think there would have been less opposition to the advance in rates if they had been asked for on a temporary basis and the people had the assurance that with the fall in commodity prices railway rates would fall too. That is over the broad picture.

Q. Mr. Young, you mentioned grain rates a moment ago. Do I understand your suggestion is that with higher than prewar grain prices it would automatically follow that grain freight rates should be increased?

A. Higher than prewar prices coupled with the higher than prewar costs.

Q. Of railway operation?

A. Of railway operations would justify some consideration, and if the farmers had been assured that it would be temporary and would only last while prices were good I do not think there would have been much trouble.

Q. Then let us assume that the price of wheat goes down?

A. Yes.

Q. And railway costs stay up?

A. Yes.

Q. What happens to the grain rates under your suggestion?

A. Then the railways would have to share the decline with the farmers. You see in the depression years the farmers took all the rap. Their incomes were cut completely away, but all other costs remained the same. What the farmers are afraid of to-day is that the same thing might happen again.

MR. SHEPARD: I think that is all. Thank you, Mr. Young.

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CROSS-EXAMINATION BY MR. RAPOPORT:

Q. Mr. Young, I appear for the Canadian Automotive Transportation Association. I should like to get your views on one or two very simple questions. First of all do you feel that the railways should be able to reduce their rates in order to meet competition?

A. They are free now to do it except for the economic necessities of having revenue.

Q. I wanted to find out whether you as an individual think that is good railway practice?

A. To reduce their rates to meet competition?

Q. Yes?

A. It is the only thing they could do; they are free to do it.

Q. To carry that a step further, do you feel that good economics should enable them to reduce their rates so as to eliminate competition?

A. No. Maybe I can ask you a question.

Q. Not to-day, maybe some other time.

THE CHAIRMAN: What was your question?

MR. RAPOPORT: I asked the witness first of all whether he thought it was good economics to enable the

railways to reduce their rates to meet competition to which the witness said "Yes." Then I asked the witness whether he thought it was good economics to have railway rates reduced to eliminate or to get rid of competition, and that is where we were.

THE CHAIRMAN: Q. Have you answered that?

A. I offered to answer it by asking him another question and he says I must not do it.

Q. What did you want to ask him?

A. I wanted to ask him if it was fair for trucks to come in and skim off the cream of the traffic and leave the railways to carry all the heavy low-rate traffic.

(Page 14151 follows)

MR. RAPOPORT: Q. Assuming that the answer to that question be yes, or no, or maybe, may I repeat my question and ask you what you think, whether the railways should be allowed to reduce their rates so as to get rid of competition?

A. Are they doing it?

Q. Would you help me out by answering my question?

A. If the railways are reducing their rates for the sole purpose of eliminating truck competition, I would not be in favour of it. But I have never heard that they were doing it.

Q. You do not favour a reduction so as to eliminate competition?

A. I do not favour a reduction which would eliminate the trucks, that is right.

MR. RAPOPORT: Thank you.

CROSS-EXAMINATION

BY MR. FRIEL:

Q. I have a couple of questions to ask you, Mr. Young. Would it be a bad thing, if there were some competition which was uneconomic, to have it eliminated, in the general picture?

A. You mean if truck competition were eliminated?

Q. Let us say, for example, truck competition, and let us say that some of the goods they carried, or some of the traffic they carried were eliminated. Would it be bad to eliminate it?

A. You are speaking now from the standpoint of trucks?

Q. From the standpoint of any mode of transportation which is not economic in the general transportation field of Canada?

A. You ask if it would be a bad thing to allow competition which would make it impossible for a competing firm of transportation to carry that particular line of goods? That is pretty nearly being done to the railways now. What is sauce for the goose ought to be sauce for the gander.

Q. You spoke of economic and uneconomic rates, and of a government making up the difference by a subsidy?

A. Yes.

Q. I presume you meant to the railways?

A. Yes.

Q. What would be your idea of the government making up the uneconomic feature of it to the industry itself, let us say, to the farmer, in regard to the grain rates, rather than to have the railways reduce their rates below a remunerative level?

A. That would take too long. You would have to set up a lot of machinery; and the farmer would have to make his reports and to pay his freight. Then let us say, the next year or so, or the year after, he gets some of it back. I do not think that is satisfactory.

Q. Do you find that the way the Feed Grain Assistance Act is administered is unsatisfactory? Isn't that in effect what you are saying? Do you find the administration of the Feed Grain Assistance Act not proper?

A. I have heard many farmers offer criticism of the difficulty and the bother they are put to in getting benefits from that.

Q. But they get their assistance back all right, just the same?

A. But they are put to quite a lot of bother to get it. There is a lot of red tape about it.

Q. You speak of the prosperity of the railways, and you have been a director of the Canadian National Railways?

A. Yes.

Q. You know that there are some things which would make for the prosperity, perhaps, of the Canadian Pacific, but which would not benefit the Canadian National Railways very much, so long as they have their heavy burden of fixed charges as they stand at the moment. Perhaps you would care to comment about that?

A. Would you mind repeating that question?

Q. Perhaps my good friend the reporter would read it back.

THE REPORTER: (reading) You know that there are some things which would make for the prosperity, perhaps, of the Canadian Pacific, but which would not benefit the Canadian National Railways very much, so long as they have their heavy burden of fixed charges as they stand at the moment. Perhaps you would care to comment about that?

A. The Canadian National has a heavy burden of fixed charges. In addition, the Canadian National has another handicap. It is a government-owned railway.

MR. FRIEL: Q. I did not ask you about the other handicaps. I just asked you about the fixed charges. Would you deal with my point, please?

A. Along with the fixed charges the Canadian National has to take care of all the bankrupt railways in the country. Whenever a railroad becomes bankrupt, the government tosses it into the Canadian National basket, and they have to operate it. Those railroads

are very often operated for national reasons; that is to say, in the interest of the nation, that is the reason they are operated. But the Canadian Pacific is not asked to operate them, because the Canadian Pacific is a private concern. However, the Canadian National, being a government-owned concern, is asked to take the responsibility of rendering the service, often in cases where there is not sufficient traffic to justify that service. That is why the Canadian National has such a tremendous capital structure. And when they take over these railroads, they take over their debts along with them. These railroads are not allowed to go into bankruptcy. They are taken over with their assets and their liabilities -- the liabilities always being greater than the assets -- they are taken over by the Canadian National.

Q. Do you think that makes for efficient operation of the Canadian National?

A. No.

Q. Do you think that something should be done about it?

A. Yes. I suggested a while ago that in matters of that kind, the Canadian National should be allowed fees, and the government should make up the difference. In fact, some of these roads should be so operated that their accounts are kept entirely separate from the Canadian National accounts, so the Canadian National, as a railroad, would have a chance to operate efficiently, and to run those roads charging rates on a management basis for the government, that is, to get a fee for so doing.

Q. Have you read the Canadian National submission?

A. I read a part of it.

Q. Did you read the part about the suggestions we made in regard to the capital structure?

A. What were they?

Q. They are quite extensive. The effect of them, as submitted in the main submission, would be to convert the government debt, which you know is very substantial, and in which the fixed charges amount to over \$20 million a year, to convert that into equity capital, so that our fixed charges would be a publicly held debt, and not that part of the debt owed to the government.

A. You mean, that the government would be in the same relation to the Canadian National as the shareholders are to the Canadian Pacific; and if there is no earnings, there is no dividend?

Q. Quite.

A. Whereas, at present, the Canadian National, while the government owns the stock, it also is the creditor; and if there is no money to pay what would be dividends in the case of the Canadian Pacific, it is then charged up to them for another year?

Q. Quite.

A. It would be like the Canadian Pacific promising its shareholders fixed dividends every year and making those dividends cumulative.

Q. Quite.

A. I do not think that is fair.

Q. So you would agree that that should take place as we have recommended?

A. Yes.

MR. FRIEL: Thank you.

THE WITNESS: There is one other thing I would like to refer to. You will correct me if I am wrong. Speaking of uneconomic things which the railways

are asked to do: we do send grain through Halifax and St. John, when it would be a much shorter haul to deliver it somewhere else.

THE CHAIRMAN: Q. Where, somewhere else?

A. Portland, for example. But I think it is national policy to direct Canadian traffic through Canadian ports. That may be a good thing, perhaps, in the national interest. But when it is in the national interest, I hold that the additional cost should be borne by the nation and not by the railroads. That is what I mean.

CROSS-EXAMINATION BY MR. SINCLAIR

Q. I represent the Canadian Pacific Railway, Mr. Young. In response to some question asked by Mr. Friel, I believe you said that you felt that the present capital structure of the Canadian National Railways was unfair, and that one of the reasons for it was because the Canadian National Railways were providing services, or were required to provide services to certain sections of the country where the traffic did not warrant that service.

MR. FRIEL: Q. He did not put it that way, I believe.

A. No.

Q. He spoke of bankrupt railways causing these traffic losses.

A. Perhaps what I meant to say was that when they took over these bankrupt railways they had to take over their debts; and all of that runs up their capital structure.

MR. SINCLAIR: Q. Have you made any study of the traffic density structure as between the Canadian

Pacific Railway and the Canadian National Railways?

A. No.

Q. You suggested, in response to Mr. Friel, that the fixed charges of the Canadian National were excessive. That is correct, is it not?

A. Yes.

Q. You would agree with him that they should be reduced to the amount of the debt structure which was in the hands of the public, rather than including in the fixed charges the debt structure which was in the hands of the government. Is that correct?

A. Yes.

Q. You said you felt that would be fair?

A. I think it would be fairer than it is.

Q. You think it would be fairer than it is?

A. Yes.

Q. Do you suggest there should be some provision, if that were done, to make it necessary for the government to have a fair return on their property invested in railway services?

A. I do not think you can build railway freight rates on a cost-plus basis.

THE CHAIRMAN: Q. What is that?

A. You cannot build up rates on a cost-plus basis. If you start fixing the price of anything on a cost-plus basis, you are starting at the wrong end. You have got to start with the price you can get, and then work back. The price we can get for our exports is the price which must support all our costs and our revenues and our rates.

MR. SINCLAIR: Q. The point I am interested in is: if there were a revision of the Canadian National structure, you would be of the view that there

should be some provision which would require the Canadian National to earn something which would take the position of dividends which are required under the Canadian Pacific. If you have not considered the problem, I am prepared to have you say that you have not considered it and I will drop the question.

A. Well, I have not considered it, no.

Q. Very well. One other question, Mr. Young. You said that if the railways had freedom of rate-making, they might set rates at variance with national policy?

A. Yes.

Q. You are not suggesting that the railways should be instruments of national policy?

A. I think I suggested that, where national policy requires certain services of the railways, then the railways should not be required to make financial sacrifices in carrying them out; and that the sacrifices should be met by the nation.

Q. Would it be correct to say, too, that your view would be that the railways should operate as business enterprises?

A. Yes.

Q. And if the nation requires services from them which could not be supported by charges --

A. Yes.

Q. That in that case, and in that case only, would the government make contributions or subventions, or subsidies?

A. In that case, yes. But when you say "in that case only", I would have some doubt. I do not know about that.

Q. I see. I do not know what would happen.

(Page 14161 follows)

RE-EXAMINED BY MR. COVERT:

Q. Mr. Young, just a few questions. First I want to know if you had in mind the recommendation that in revenue cases there should always be quick and almost immediate granting of temporary relief. Is that one of your recommendations?

A. Not always. It depends on how serious the situation is.

Q. But you seem to couple that with the provision that when costs return to normal there would be a reduction in rates where increases had been granted. I just want to find out what your real recommendation to this Commission is, because you say:-

"If immediate relief had been granted, on a temporary basis, to be withdrawn as prices returned to normal, there would probably have been little opposition from the public."

A. Yes.

Q. Now, apparently you regard that as important, and I was wondering if you were suggesting that that should be a formula under which the Board of Transport Commissioners^{ers} should work.

A. I would not tie the Board of Transport down to doing that in all cases, but it should have been done in that case. There are cases where it should be done, but I would not lay that down as a rule to be followed always.

THE CHAIRMAN: Do you say that they did not have the power to do it in that case?

A. The Board of Transport Commissioners? Yes, they had power as far as I know. They had the power to grant temporary relief.

Q. You are simply finding fault with something that they did or did not do?

A. Something that they did not do.

MR. COVERT: Now, it seems to me, Mr. Young, that the tenor of your brief is that the main difficulty is the heavy burden of wage costs resulting chiefly from the recent wage increases. Do you suggest that the Rand formula which you mention is in effect in the railways?

A. I said it is in effect in building up the unions.

Q. No, I am not sure of this but I understand that the Rand formula does not operate in the Railways?

A. The Rand formula is not mentioned in this Brief.

THE CHAIRMAN: What is that?

A. The Rand formula is not mentioned in this Brief. I was asked by somebody how these unions were being built up and what was the remedy, and I suggested that that was one of the causes of giving them undue strength.

MR. COVERT: Yes, I say I understand that the Rand formula is not in effect in the railway unions.

A. Well, I have not said it was.

THE CHAIRMAN: When you said, "these unions" we thought you meant railway unions.

A. Yes, railway unions, but as to the Rand formula if I remember rightly it was the Chairman asked if it was in effect, and I said I thought the automobile strike was settled by that formula.

MR. COVERT: Yes, but I am suggesting to you that that could not be one of the causes in the railways if it is not in effect. Then you also mentioned the

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closed shop. Do you say that the closed shop is in effect in the railways?

A. No, I don't say that. I did not mention the closed shop in connection with railways. I said that is one of the things that has built up undue strength in the unions.

Q. I just want to find out, Mr. Young, what you find is wrong or what you are suggesting is wrong and what, if anything, is the remedy. Your real suggestion is that the railway unions are too powerful, is that correct?

A. Yes, that is the point: not only the railway unions, but the trade unions are too powerful.

Q. Can we just deal with the railways because that is the point that you are talking about here.

A. Yes.

Q. Can we confine it to that?

A. Yes.

Q. Do you say that the railway unions are too powerful?

A. I say that any union or organization of men that is strong enough to say to the Government of Canada: "You will do this thing for us or we will starve the people of Canada until you do", I say that organization is too powerful.

Q. I don't know whether you have answered my question or not or whether you say that is what they have done. Could I have an answer to my question? I don't want to take up too much time. I just ask you if you are saying that the railway unions are too powerful.

A. Yes.

Q. Then do you suggest that they should be stripped of some of that power?

A. I think I made my suggestion that the things that are artificially building up that power should be withdrawn, and let them stand in their own strength.

Q. That was my point. I think the things which you suggested had built up that power, that neither one of them is in force in the railway unions.

A. Is there no sole bargaining agency in railway unions?

Q. I believe there is a sole bargaining agency, but I don't believe it has either a closed shop or --

A. The sole bargaining agency is the biggest item.

Q. I just want to find out if there is anything that you have to recommend. You say that the unions should not be appointed as sole bargaining agency?

A. I say a union should bargain for its members, it should collect its own fees from the members and the company should not be required to collect them, and those who do not belong should not be required to pay.

THE CHAIRMAN: Are they now in the railway unions?

A. Required to pay? I don't know. If the Rand formula is in effect, probably they are not, but they still have to speak there with one voice.

MR. COVERT: And you regard that as wrong?

A. Yes.

Q. But I understand you don't suggest that the strike weapon should be taken away?

A. No, they have the right to strike but no right to break the law.

Q. You mention rates which were uneconomic and I wondered if you have any particular ones in mind, Mr. Young?

A. The Crows' Nest rates.

Q. The Crows' Nest rates, yes. Any others?

A. I am not sure what the rate is for grain going through the Maritime ports, but perhaps Mr. Friel will correct me if I am wrong. I don't think the railways get adequate compensation for the extra haul, Is that right?

MR. FRIEL: That is right, to put it mildly.

MR. COVERT: Q. Had you any others in mind?

A. No, but there might be lots more though.

Q. Yes, but those are the ones you have in mind?

A. Yes.

Q. What I wanted to know is, in connection with the Crows' Nest rates for example. I presume you have not made any special study of them yourself or of these other rates, but we will assume with you for the moment that they are uneconomic. Now, have you any suggestions as to how they should be treated? Are these ones that should be subsidized, as you referred to a few minutes ago? Are they the type of rates you think should be subsidized?

A. I think it has been the policy of the Canadian Government for a long time to insist on low freight rates to the seaboard for our export goods, particularly wheat, and perhaps that was the idea behind the Crows' Nest agreement in the first place. That being the case I don't think it is fair to ask the railways to make sacrifices. I think the Government would still insist on the policy of low rates, but in

a case like that it should make a contribution to them.

Q. Do you suggest that that be done by a subsidy to the railways, Mr. Young? Is that your suggestion?

A. Well, what about Maritime freight rates? The railways charge a rate and collect a portion of it from the shipper and send the bill to the government for the rest. Is that not the practice?

Q. You are suggesting then that the Crows' Nest rates should be treated in somewhat the same manner as the subsidies under the Maritime Freight Rates Act?

A. Yes,

Q. Then you mention (I am not quite sure I got you) the hauling of goods for export through St. John and Halifax?

A. Yes.

Q. Rather than through Portland?

A. Yes.

Q. Do you think that national policy should dictate that course?

A. Well, I am not here criticizing national policy and I don't think the Commission is investigating national policy; their task is what to do about it.

THE CHAIRMAN: That is just what we are going to do.

A. I mean, you are not investigating whether the nation is wise in wanting to get these products to the seaboard at a low rate or not. You are interested in what is best for the transportation industry. I think that is a national policy and I think our economy has been built up on it. I believe the policy of the C.P.R. from the very beginning was to direct traffic eastward to

the seaboard, not south.

Q. Well, I just want to find out from you as a citizen, because you are here as a citizen, whether you thought it should be national policy to direct traffic through our own national ports rather than through Portland. Do you mind answering that?

A. Yes.

Q. You think that is proper.

A. In time of war it is very handy to have our own ports developed, very handy, and traffic running to them. If we are to build up a nation here, we have to make some sacrifices and follow a definite policy that will have that effect.

Q. Then I just want to find out: you would approve of that policy?

A. Yes,

Q. You were a director of the Canadian National how long Mr. Young?

A. Seven years.

Q. What period?

A. From 1942 to 1949.

COMMISSIONER INNIS: Who was president in that period?

A. Mr. Vaughan.

Q. Throughout the whole period?

A. Yes.

MR. COVERT: Q. And you say that if those rates are low the government should subsidize the railways?

A. If the rates are uneconomic, yes.

Q. Then your answer to the railways carrying products that perhaps are in the national interest, such as grain under the Crows' Nest rates, you say the answer to that

is a subsidy by the government?

A. Yes.

Q. Your answer to the increased cost of wages really is to destroy the power of the unions to some extent?

A. Yes, and get down to collective bargaining.

Q. I want to get exactly what you mean, Mr. Young, because it seems to me that what you suggest here is that there is collective bargaining to a point **where** it reaches conciliation. Then what do you say from then on? Should they be treated any differently than other industries?

A. There was collective bargaining up to the point where they found they could not agree, and then the Government stepped in and then there was bargaining between the Government and the unions, and the railways had no say in it.

Q. And that is your understanding, Mr. Young, and you say that is wrong?

A. Yes.

Q. Now what you say particularly is wrong there is that the railways had no say in it or that the Government intervened?

A. The Government had to intervene because the unions were in a position to make the people of Canada suffer until they did.

Q. Well, could we have just what you say is wrong. I am just trying to get at that.

A. What is wrong? We have built up an organization that is too strong to exist in a democratic country. It forces the Government to come to terms with it.

Q. Then you say there was nothing wrong in what has happened in the negotiations between the Government and the unions.

A. Well, we don't know what did happen between the Government and the unions. All we know is that the Government settled the strike.

THE CHAIRMAN: Well, were not the railways made a party to whatever agreement was made?

A. No, the final settlement was made between the Minister and the unions, and the railways accepted it.

Q. Well, the railways accepted it; therefore they were a party to it.

A. Well --

Q. I just want to get what the facts were.

MR. COVERT: What I was trying to find out, Mr. Chairman, was whether he knew exactly what did take place, because we have on the record Mr. Crump's evidence as to what did take place. I wondered if, as a director of the Canadian National, Mr. Young had any additional information.

THE WITNESS: I have no inside information. What I tell you is what everybody knows who has read the papers.

(Page 14170 follows)

COMMISSIONER INNIS: Mr. Young, I only wanted to ask you one or two questions. You were a director for how many years under Mr. Vaughan?

A. Seven.

Q. How often did the Board meet?

A. At least once a month.

Q. And how large is the Board?

A. Seven.

Q. Pretty generally regularly attended?

A. Very seldom anyone absent.

Q. Do you think it has much influence on railway policy?

A. Well, it is pretty hard to ask a man the extent of his own influence.

Q. But since you are a director and have had that experience I wonder if you would care to make any comment?

A. Nobody can comment on his own influence. Nobody knows how far it goes.

Q. If not of your influence, of the Board's?

A. I would say this, that the Canadian National Railway has a good Board.

THE CHAIRMAN: Are you still on it?

A. No; it is still good, but the Board of a government owned railway in the nature of things cannot have the same freedom of action as the Board of a privately owned railway.

COMMISSIONER INNIS: You do not know how much influence the Board of a privately owned railway has either?

A. No, I do not but the Board of a privately owned railway is responsible to its shareholders and they have one purpose in view which is dividends -- earnings, but the Board of a publicly owned railway has to have regard for certain national interests for which the

government is responsible and, therefore, has to keep those in mind.

Q. Well, have you any suggestion for possible means of improvement of the size of the Board or length of tenure or anything like that?

A. No, I think it is very good. The members are appointed for three year periods and at the end of the three years they are either re-appointed or not re-appointed.

Q. Do you think they could have much influence in that length of time?

A. Well, generally they are re-appointed. How much influence a man has in one, two, or three years depends largely on the man and it is utterly unpredictable. Some men will go into a room and influence things from the very beginning and some men won't.

Q. You have not the feeling that you are presented with policy and facts by the management and that in the main you accept them -- I won't say you are in the position of a rubber stamp but perhaps not far from that?

A. No, that is not so. The management when they ask the Board for approval or disapproval of anything are very careful to assemble all the facts and if it is an important matter, the Board get advance knowledge about it so that they have time to study it up before they come to the meeting.

Q. Are minutes kept by the Board and are they accessible to the public?

A. They are kept, but I do not know if they are accessible to the public or not. They are taken and read at the next meeting.

Q. I was wondering whether you would care to comment on this consideration. Do you think in the case

of the Canadian National, the President has to be in the position in which he, to some extent feels that he must stand in strongly with labour and that consequently he may be a factor in building up unions along the lines you have suggested?

A. No, the President of the Canadian National is like the president of any other railway or any other organization. He naturally wants to stand in with labour, to promote harmonious relations in the organization and he is right in doing it.

Q. Do you think there is greater pressure on him to stand in right with labour than in the case of the Canadian Pacific Railway?

A. I do not think so.

Q. Do you think the Canadian Pacific Railway has any president with the same record of public relation with labour as Sir Henry Thornton, for instance?

A. Well, I cannot tell you that. I have not noticed that either the Canadian^{National}/or the Canadian Pacific were famous for discord with their employees. I thought they both had very good records.

Q. One other minor point. You say a good deal here of the sovereignty of railways?

A. The solvency. The word I was trying to use was "solvency".

Q. I am sorry; I did not have a copy of your brief before me. I wondered too whether you had any knowledge of the sort of precision which could be obtained in deciding what were uneconomic services. Were you just talking generally?

A. I was talking generally. Anything precise would have to come from officials who were in close touch with day to day operations.

Q. Do you think the officials could tell you?

A. I do not know if they could tell you offhand; that would depend upon what question you wanted to ask.

Q. But you have a deal of faith in the officials?

A. Yes, I have faith in the officials. They are very careful in gathering information and very willing to do it.

Q. I was just wondering. We had a quotation in Prince Edward Island on what it costs to move goods from certain localities to ports?

A. I would not say that God could not do it. There are not very many men that could do it. It costs twelve cents^a/bushel for wheat from Regina to the head of the Lakes. Now, you can figure how many bushels you can put in a car and how many cars to a train and what it will cost to pull that train down there and the accountants can apportion a certain portion of the clerical costs and capital costs and all the other costs of the operation of that train, but what they cannot figure is what would happen if that train did not run -- how much more then would it cost to move other trains. Those are the incalculable features.

THE CHAIRMAN: Mr. Young, these rates to the ocean ports, you say that they are low enough and are not remunerative to the railways?

A. Yes.

Q. Suppose the railways are allowed to increase them, what would happen?

A. Well, perhaps the traffic would not move.

Q. It would go down to Portland?

A. I do not know that it would go to Portland. It might go. It used to but it has been stopped.

Q. Supposing that was done, supposing the railways

charged what would be the proper rate to charge and they lost the traffic. Then what would be the situation?

A. Why, the situation would be that the railways -- perhaps they are better working their equipment to capacity even if they lose on some of the traffic than having it idle.

Q. Well, what compulsion is there upon them now to charge those low rates which give them preference over Portland? There is no statute?

A. No, they are not statutory rates; I presume they are under the Board of Transport Commissioners.

MR. FRIEL: Competition, I suppose would be the answer.

THE CHAIRMAN: Just competition with the American railways?

THE WITNESS: Yes.

MR. COVERT: The next submission is that of T. S. Woollings and Company Limited and the witness is Mr. H. E. Duffy.

MR. H. E. DUFFY, CALLED

EXAMINED BY MR. COVERT

Q. Mr. Duffy, would you give your full name please?

A. My name is Harold Edward Duffy. My home office is located at 100 West Center Street, Johnsonburg, Pa. I am traffic manager for the T. S. Woollings and Company, Limited, offices located at South Porcupine, Ontario, a Canadian subsidiary of the Armstrong Forest Company, engaged in the Procurement of pulpwood for the New York and Pennsylvania Company, Incorporated, manufacturers of woodpulp and high-grade printing papers with mills located at Johnsonburg, Lock Haven, Pa., and Willsboro, N.Y.

The T. S. Woollings Company, Limited is engaged in the production of pulpwood as well as the production of lumber and railroad ties. All of the pulpwood production is shipped to the Armstrong Forest Company at Johnsonburg, Pa., lumber to various destinations throughout the Dominion of Canada, and the railroad ties are furnished under agreement for the Ontario Northland Railway.

It will not be our purpose to discuss the rates which apply wholly within Canada for the latter two-mentioned commodities. The basis rates which apply on pulpwood from origin territories on the Ontario Northland Railway through to Johnsonburg, Pa., we have contended for a long time have been entirely out-of-line. There was no set basis upon which the rates, applied for the movement of pulpwood from these origin territories to Johnsonburg, were predicated. During the early part of 1942, it was generally accepted that new joint through international rates on pulpwood which were proposed and which reflected 125% of the Interstate Commerce Commission Docket 14883, Commission-approved basic mileage scale on pulpwood increased 10% under Ex Parte 123, would be approved. However, there was no effort made to adjust the rates, which were then in effect, to this basis. New rates were not held to this basis but were established under this formula plus 1¢, 2¢, or 3¢ arbitrary. This, of course, created a very serious rate situation.

Prior to July 1946, the basic rates on pulpwood, established in the various joint international tariffs applying to Johnsonburg, Pa., were as we contended and had been previous to this time called to the attention of the carriers as being out-of-line, when compared with rates within Canada mile for mile.

In July of 1946 the Interstate Commerce Commission released an interim decision in ex parte 162, increasing all rates within the United States by 11%. On January 1, 1947, in the Interstate Commerce Commission's final decision in ex parte 162, they removed the 11% increase and allowed a 20% increase in the basic rates on pulpwood within the United States.

In ex parte 166, the Interstate Commerce Commission on October 13, 1947 allowed a 10% emergency charge. On January 5, 1948, they increased the 10% emergency charge to 20%. In their final decision in ex parte 166, effective May 6, 1948, they allowed an increase of 30% in the basic rates removing the application of the 20% emergency charge. On August 21, 1948, they adjusted the percentage wise increases allowed in their final decision and pulpwood was granted a 25% increase in the basic rate rather than the 30%, which was originally prescribed effective May 6, 1948.

Up to and including their final decision in ex parte 166, the Interstate Commerce Commission in dealing with the international rates said in each of the previous decisions, released that "Joint international rates to and from Canada or Mexico may be increased to the same extent and in the same manner as is herein authorized within the United States. Where rates on international traffic are made by the use of combinations on the international border, the factor within the United States to or from the international border may be increased to the same extent and in the same manner as is herein authorized within the United States." We objected very strenuously to the language used by the Interstate Commerce Commission dealing with the joint through international rates, but we were not successful in convincing the Interstate Commerce Commission that the language used in their decision with regard to the rates on international traffic went beyond the limits of their

jurisdiction until the final decision in ex parte 166, wherein they changed their language when referring to the joint through international rates to read that "International rates to and from Canada or Mexico whether single factor or combinations, may, within the limits of their jurisdiction, be increased to the same extent and in the same manner as herein authorized within the United States." When this decision was released the American Paper and Pulp Association by its attorneys LaRoe, Brown, and Winn, Washington, D.C., on April 19, 1948, directed^a telegram to the Honorable J. A. Cross, Chief Commissioner, the Board of Transport Commissioners for Canada, Ottawa, Ontario, Canada, which read as follows:

"In behalf of American Paper and Pulp Association representing major production of paper and paper commodities throughout United States attention your Honorable Board respectfully called to Interstate Commerce Commission finding ex parte one Sixty-Six released today limiting authorized increase international rates on pulpwood to jurisdictional limits of said Commission. Association protests against any increase of international rates on pulpwood, for that part of transportation in Canada unless and until justified in formal proceedings under the Transport Act in which protestants shall have full opportunity for hearing in conformity with the rules of procedure before this Honorable Board."

On the same date, April 19, 1948, Hugo Ignatius, Chairman of the Traffic Committee of the American Paper and Pulp Association addressed a joint telegram to Mr. C. E. Jefferson, General Traffic Manager, Canadian Pacific Railway Company, Montreal, Quebec and Mr. J. Pullen, General Freight Traffic Manager, Canadian National Railways, Montreal,

Quebec, and we quote:

"Interstate Commerce Commission interim general increase order dated thirteenth released today authorized amended interim increases but states as to international rates that to and from Canada where single factor or combination may within the limits of Interstate Commerce Commission be increased to the same extent as within United States. This distinctly excludes authority for full increases under Interstate Commerce Commission order in international rates from Canada. We are vitally concerned with our Canada wood situation and are wiring Board of Transport Commissioners to withhold issuing an order increasing the Canadian portion of through pulpwood rates until after hearing. Meanwhile we would like to confer in Montreal with Canadian Railroads regarding situation and respectfully request that you postpone action before Board of Transport Commissioners until after our conference."

(page 14185 follows)

On April 22, Mr. Hugo Ignatius received reply to his telegram and we quote:

"Your message nineteenth April received twentieth stop Board Transport Commissioners in response application Canadian Railways nineteenth April issued order 70530 twentieth April permitting increase through rates between Canada and United States to extent authorized by Interstate Commerce Commission in their decision thirteenth April ten days notice stop Would be impracticable Railways make exception pulpwood and in circumstances increases being published effective sixth May stop Transport Board's order does not preclude industry making further submissions to railways for revision further increases being made effective or filing of complaint with the Board in manner provided in the Railway Act and conformity Board's rules of procedure."

We submit to your honourable Commission copies of these telegrams for the record.

On January 11, 1949, the I.C.C. released an interim decision in ex parte 168, increasing the rates on pulpwood within the United States by 6%. This increase was to be treated as an emergency charge. In this decision the I.C.C. used the same language as they did in 166 when dealing with the international rates.

On September 1, 1949, the final decision in ex parte 168 removed the 6% interim emergency charge and increased the rates by 10%. In each instance where increases were granted the rates were pyramided. We again objected to the Canadian carriers

accepting these increases and on August 12, 1949, the Armstrong Forest Company directed telegrams to the Honourable J. A. Cross, Chief Commissioner, Board of Transport Commissioners for Canada, Ottawa, Ontario; Mr. C. E. Jefferson, General Traffic Manager, Canadian Pacific Railway Co., Montreal, Quebec; Mr. J. Pullen, General Freight Traffic Manager, Canadian National Railways, Montreal, Quebec; and Mr. R. P. C. McLeod, Traffic Manager, Ontario Northland Railway, North Bay, Ontario, calling their attention to the language of the I.C.C. and requesting that they not increase their rates under the I.C.C.'s decision until such time as we were afforded an opportunity to confer with them. Copies of these telegrams and replies are submitted for your record. If you so desire I will read these telegrams. Do you want them read into the record?

MR. COVERT: I think it would be better to read them into the record.

THE CHAIRMAN: Yes.

THE WITNESS: (Reading):

"

August 12, 1949,
Johnsonburg, Pa.

Honourable J. A. Cross,
Chief Commissioner,
The Board of Transport Commissioners for Canada,
Ottawa, Ontario, Canada.

"We respectfully call the attention of your honourable Board to Interstate Commerce Commission's final findings Ex Parte 168, released late last evening, authorizing further additional increase 4 per cent. Final decision permits increase to jurisdictional limits of said Commission only. We wish to enter protest against any increase of international rates on pulpwood for that part of the transportation in Canada.

H. E. Duffy, Traffic Manager,
Armstrong Forest Company."

"

August 16, 1949,

Ottawa, Ontario

Mr. H. E. Duffy, Traffic Manager,
Armstrong Forest Company,
Johnsonburg, Pa.

"Your telegram 12th addressed to former
Chief Commissioner Cross stop Deemed by Board
to be in public interest continuity of Joint
International rates should be preserved stop
Order seven two nine nought five dated 12th
instant issued authorizing adjustment through
rates between Canada and United States to extent
authorized by Interstate Commerce Commission
on 15 days notice stop Order provides that
the resulting rates in all respects shall
be subject to complaint and investigation as
provided by Railway Act stop Board does not
consider pulpwood should be singled out for
special treatment.

P. F. Baillargeon,
Secretary."

August 12, 1949,

Johnsonburg, Pa.

Mr. C. E. Jefferson,
General Traffic Manager,
Canadian Pacific Railway Company,
Montreal, Quebec, Canada.

"Interstate Commerce Commission's final
order Ex Parte 168, released last evening
authorizes additional increase 4 per cent.
As to Interstate Commerce Commission's decision,
it limits increase only to that part of the rate
under their jurisdiction. This excludes authority

for full increase under their decision in International rates. We respectfully request that you postpone any action toward increasing the International rates on pulpwood until such time as we may have an opportunity to confer with you regarding this decision.

H. E. Duffy,
Traffic Manager,
Armstrong Forest Company."

August 13, 1949,
Montreal, Quebec.

Mr. H. E. Duffy, Traffic Manager,
Armstrong Forest Company,
Johnsonburg, Pa.

"Your wire 12th stop. While Interstate Commerce Commission final order Ex Parte 168 authorized increase International rates covering portion haul under their jurisdiction Board Transport Commissioners for Canada have authorized same adjustment covering portion haul within Canada and which situation similar prior cases stop Therefore you will appreciate Canadian Lines could not consistently postpone increasing International rates pulpwood without creating very embarrassing situation.

C. E. Jefferson."

August 12, 1949,
Johnsonburg, Pa.

Mr. J. Pullen,
General Freight Traffic Manager,
Canadian National Railways,
Montreal, Quebec, Canada.

"Interstate Commerce Commission's final order Ex Parte 168, released last evening, authorizes

additional increase 4 per cent. As to Interstate Commerce Commission's decision, it limits increase only to that part of the rate under their jurisdiction. This excludes authority for full increase under their decision in International rates. We respectfully request that you postpone any action toward increasing the International rates on pulpwood until such time as we may have an opportunity to confer with you regarding this decision.

H. E. Duffy,
Traffic Manager,
Armstrong Forest Company."

"

August 13, 1949,
Montreal, Quebec.

Mr. H. E. Duffy,
Traffic Manager,
Armstrong Forest Company,
Johnsonburg, Pa.

"Your wire 12th Interstate Commerce decision only applies to part of rate in U. S. under their jurisdiction but the Board of Transport Commissioners for Canada have authorized similar adjustments affecting Canada stop. Regret we cannot consistently make any exception in the rates on pulpwood without involving other commodities which would create an embarrassing situation M-349.

John Pullen."

"

August 12, 1949,
Johnsonburg, Pa.

Mr. R. P. C. McLeod,
Traffic Manager,
Ontario Northland Railway,
North Bay, Ontario, Canada.

"Interstate Commerce Commission's final order Ex Parte 168, released last evening, authorizes additional increase 4 per cent. As to Interstate Commerce Commission's decision, it limits increase only to that part of the rate under their jurisdiction. This excludes authority for full increase under their decision in International rates. We respectfully request that you postpone any action toward increasing the International rates on pulpwood until such time as we may have an opportunity to confer with you regarding this decision.

H. E. Duffy,
Traffic Manager,
Armstrong Forest Company."

On August 26th I received a letter in reply to this telegram reading:

"

August 26, 1949.

2000-41

T.S.Woolings & Company, Ltd.,
South Porcupine, Ont.

Mr. H. E. Duffy,
Traffic Manager,
Armstrong Forest
Products
Johnsonburg, Pa.

Dear Sir: Re: I.C.C. Freight Rate Increase
 Ex Parte 168

"Referring to Mr. Duffy's telegram of August 12, and your joint letter of August 20, file TSW-TD-2517, requesting that we postpone any action in increasing the rate on pulpwood from our local points to Johnsonburg.

"Having in mind that pulpwood moves over our rails to other U. S. destinations, am sure you will appreciate my inability to accede to this request. From the conversation the writer had with Mr. Duffy when he was in office late last spring, as well as subsequent conversations with Mr. Woollings, I fully appreciate your position, and for your information, I was in Toronto on Monday and Tuesday of this week and have succeeded in prevailing on our connections, the Canadian Pacific and Canadian National, to make a very careful study of the rate situation from our local points, particularly Rundell and Connaught, to Johnsonburg.

"It may be some time before I can give you any additional information, as you will appreciate any reduction which we might institute will also have to be handled with the U. S. Lines.

Yours truly,

/s/ R. P. C. McLeod,

Traffic Manager."

During the same period of time that all of the aforementioned increases were being considered and granted to the United States' carriers by the I.C.C. the Transport Commissioners for Canada were travelling the length and breadth of the Dominion of Canada hearing testimony and investigating financial conditions of the Canadian carriers in an effort to determine the need for additional revenue that would keep the Canadian carriers financially strong. After these investigations by the Canadian Transport Commissioners, they decided that the Canadian carriers needed an increase of 21% in their basic

rate structure, and they granted this increase with very few exceptions. This increase did not in any way affect the joint through international rates as they applied to pulpwood. An appeal was taken by some of the Canadian Provinces against the increases allowed by the Canadian Transport Commissioners, and upon a second application from the Canadian carriers to the Transport Commissioners for additional increases in their rate structures, an 8% interim increase over and above the 21% was allowed, and we understand became effective on October 1, 1949.

With the foregoing chronological references to the increases allowed within Canada we would like to contrast the increases in the joint through international rates, keeping in mind that the rates within Canada have been increased only approximately 31%, while the increases, which have been allowed by the I.C.C. and accepted by the Canadian railroads, on joint through international rates are 65% over the basic rate. This percentage wise figure, of course, covers only the increases allowed by the I.C.C. since Ex Parte 162, but we must also consider the 10% increase which was taken by the Canadian carriers in Ex Parte 123, which became effective in 1938.

We would like to discuss a few specific cases, and in our opinion the same circumstances are true in practically all of the rates on pulpwood. The basic rate which includes the increases in Ex Parte 123, on pulpwood from Pembroke, Ontario, to Johnsonburg, Pa., in effect June 30, 1946, was 25¢ per 100 lbs. On July 1, 1946, the interim increase in Ex Parte 162 - 11%, increased this rate to 27¢ per 100 lbs. The final increase in Ex Parte 162 - 20%, effective January 1, 1947, increased the 27¢ rate to 30¢ per 100 lbs. Ex Parte 166, interim

decision October 13, 1947 - 10%, increased the 30¢ rate to 33¢ per 100 lbs. The second interim increase in Ex Parte 166, effective January 5, 1948, increased the 33¢ rate to 36¢ per 100 lbs. August 21, 1948, in the final decision in Ex Parte 166, the 36¢ rate was increased to 38¢. Interim increase Ex Parte 168, effective January 11, 1949 - 6% emergency charge resulted in a through rate increase from 38¢ to 40.28¢ per 100 lbs. The final decision in Ex Parte 168, effective September 1, 1949, increased the rate from 40.28¢ per 100 lbs., to 42¢ per 100 lbs., which is the present rate, or an increase in cents per 100 lbs. of 17¢ over the basic rate, or a percentage increase over the basic rate, effective prior to July 1, 1946, of 68%. Take this same rate of 42¢ per 100 lbs., as a comparison on a carload of pulpwood moving from Pembroke, Ontario, to Johnsonburg, Pa. The amount accruing to the Canadian carriers is 31.50¢, to the American carriers 10.50¢ per 100 lbs. The distance for the Canadian carriers wholly within Canada via the short-line mileage is 393 miles, while the haul on the American side is 130 miles. By the same measuring stick and for the same distance of haul within Canada from Pembroke, Ontario, to Thorold, Ontario, under the highest mileage scale applicable within Canada on pulpwood, you have a published rate today of 18¢ per 100 lbs., but the Canadian carriers feel that for the same haul on the same carload of pulpwood destined to Johnsonburg, Pa., which moves through Fort Erie, Ontario, they must receive 31.50¢ out of the joint through international rate. So far as we can determine from our investigation, there is absolutely no difference in the service that the Canadian carriers render on a car

moving from Pembroke, Ontario, to Thorold, Ontario, or from Pembroke, Ontario, to Johnsonburg, Pa. Now again let us take the 18¢ rate, which is established in Canadian National Railways' Tariff CRC No. 1812, CF-300, from Pembroke, Ontario, to Thorold, Ontario, plus the rate which is published to-day in Canadian National Railways' Tariff ICC E-462, from Thorold, Ontario, to Suspension Bridge, N. Y. - 11¢, which is the international rate and increased under all the I.C.C.'s decisions. The combination of these factors would produce a through rate from Pembroke, Ontario, to Suspension Bridge, N. Y., of 29¢, but still in all the Canadian carriers feel that they should have 31.50¢ division of the joint through international rate for the car that is moving through to Johnsonburg, Pa., however, there is an established rate within Canada for the movement of pulpwood from Pembroke, Ontario, to Suspension Bridge, N. Y. which is published in Canadian National Railways' tariff E-462 of 36¢ per 100 lbs. Now let us take the rate which is established within the United States from Suspension Bridge, N. Y., to Johnsonburg, Pa., of 12¢ per 100 lbs., which rate includes all the increases allowed by the I.C.C., and published in Erie Railroad Pulpwood Tariff I.C.C. 20410, and add it to the two-way combination from Pembroke, Ontario, up to Suspension Bridge, N.Y., of 29¢, and you would have a three-way combination of local rates of 41¢ from Pembroke, Ontario, to Johnsonburg, Pa., which would defeat the joint through international rate of 42¢ per 100 lbs. Of course, the tariffs do not carry the alternative application of intermediates permitting us to use this three-way combination to defeat the through rate. This is true in a good many instances. To mention a few, Yellek, Ontario; Maniwaki, Quebec; Eganville, Ontario, and the same situation can be set up from points on the

on the Ontario Northland Railway through to Johnsonburg, Pa.

At the risk of repeating ourselves, we wish to state at this time that this explanation of the rate situation within Ontario and Eastern Quebec is true. In our opinion the increases that have been forced upon the American pulpwood consumers by virtue of increases which were allowed by the I.C.C., and which in our opinion and we believe in recent decisions of the I.C.C., confirms somewhat that it was not intended that these increases would be allowed on the through international rates, when compared to those which have been applicable wholly within Canada have ruptured the entire rate structure as it applies to pulpwood for joint through international movements, and certainly something should be done to adjust the basic rates which are presently applicable, and that a new basis be established which would reflect a through scale for the mileages involved that would be comparable to the mileage basis effective mile for mile within the Dominion of Canada for the transportation of pulpwood.

We would like to state at this time that we have numerous contractors within Canada, who furnish pulpwood for the Armstrong Forest Company. All pulpwood is brought f.o.b. origin. Therefore, the Armstrong Forest Company assumes the responsibility with regard to the routing of this traffic, as well as endeavouring to keep contractors advised with respect to rates and other traffic matters as they affect their movements. We, in our close contact with these contractors, are very familiar with the manner of the production and the procurement of the pulpwood which they handle. Too much importance cannot be placed upon the relationship the pulpwood industry occupies

in the economic condition of the small farmer and settler in the areas through which pulpwood is the chief industry. The farmer and settlers and small producers from whom these contractors purchase pulpwood depend upon the monies received for the pulpwood to secure the cash they require to pay their taxes, insurance, grocery bills, doctor bills, etc. When there is no market for pulpwood then it is impossible for them to secure the cash with which to carry on, or credit. When there is a ready market for pulpwood good times are reflected throughout the entire pulpwood-producing country, and farmers and settlers pay their bills and merchants' books are free of bad debts.

Testimony has already been received by your honourable Commission as to the amounts of pulpwood which have been shipped by some of our contractors, but we would like to discuss the movement of pulpwood from the T. S. Woollings & Company, Ltd., operations at Connaught, Ontario. In the past ten years, T. S. Woolings & Company, Ltd., has shipped from Connaught, Ontario, to Johnsonburg, Pa., 246,390.26 cords of pulpwood. Total freight charges paid to the Ontario Northland Railway within Canada \$2,910,448.94. Based on the average percentages of this total rail charge, the Canadian lines retained 70% average or \$2,037,314.26, while the American lines received an average of 30% or \$873,134.68. Our operations at Connaught employ during the winter season some 300 odd cutters and additional 50 to 60 truckers. During the driving season from 70 to 100 men are employed on that operation. During the sap-peeling season an additional 200 to 250 cutters are employed. For the towing and

rossing mill operations, extending usually from early June to November, an additional 80 men are employed in connection with the rossing operation and the filing out and loading of pulpwood on freight cars. The movement of pulpwood from Connaught to Johnsonburg was begun in 1917, and has been a continuous operation ever since. Heavy movements of pulpwood from Connaught, Ontario, to the Armstrong Forest Company have taken place every year since that time, but due entirely to the high transportation costs, I feel that the movements of pulpwood, which have been enjoyed by the Canadian carriers since 1917, cannot continue unless drastic downward adjustments are made in the present transportation rates.

During the winter season there is no wood being prepared on the T. S. Woolling's & Company, Ltd., operations. I know that due entirely to the high costs of transportation that the Armstrong Forest Company disposed of certain quantities of pulpwood previously contracted for shipment to Johnsonburg, Pa., to escape the payment of the excessive transportation costs.

There is no difference, contrary to the usual opinion, of the fibre content of the use of the fibre of Canadian poplar pulpwood as compared to the hardwoods, softwoods, and poplar pulpwoods which are taken from the hillsides of Pennsylvania. You are definitely faced with a severe competitive situation which should be of great importance to you. It has not been too many years ago when in our woodyard we had an inventory of 26,214 cords of Canadian poplar

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pulpwood as against 767 cords of local hardwoods, softwoods, and poplar pulpwoods. Today in contrast with the above mentioned figures we have an inventory of 76,300 cords of local hardwoods and poplars, as against 45,600 cords of Canadian poplar pulpwood. This, we believe, will give you some idea of the trend of future developments in process today, which at this time appear to make the use of local hardwoods and softwoods a great deal more accessible, and we refer to the research now being carried on in the semi-chemical pulp fields.

We hope in the mutual interest of all concerned that your honourable Commission will, in your final consideration, make strong recommendations that something be done to bring about reductions in freight rates that will stimulate the movement of this international traffic.

Now, with your permission, Mr. Chairman, I would like to read some letters from some contractors. I would like to submit them for the record.

THE CHAIRMAN: Very well. You may proceed.

THE WITNESS: Thank you, sir. This first letter was addressed by W. B. Plaunt & Son at Sudbury, to the Royal Commission on Transportation, Ottawa, Ontario. It reads:

"Some time ago we renewed an old contact that dated back to the early twenties with the Armstrong Forest Co. of Johnsonburg, Pen., for the sale of peeled poplar pulpwood, from an area comprising of parts of Algoma, Sudbury, Nipissing, Parry Sound districts and the western edge of Quebec.

The demand for wood from Armstrong Forest Co.

is very great as long as the wood from our area remains fairly competitive, with freight the largest and deciding factor. At the present time the freight cost ratio, to wood cost FOB cars is approximately 150%.

In our first year back at supplying this company, we produced around 5,000 cords in the 47-48 season. In the 48-49 season the production was over 12,000 cords and the future indicated as large or possibly even larger shipments, until the cost of transportation became an impossible obstacle for further shipments. As a result we have no contract of peeled poplar for 49-50 season shipping.

This has meant a very decided hardship for many of the settlers, farmers and small operators with whom we have done business, as well as for small business in the towns and villages around which we have dealt.

We have a domestic pulp business as well as export but in the two markets the species required by the two companies are different to a large degree and one does not offset the other.

We are also producers of ties and other products for railroads and we find that the buying of pulpwood increases the supply of ties in many areas where the production of either one is uneconomic but a combined operation is practical. The importance of this production to the country is obvious when it is understood that to many farmers and settlers, this is their only cash crop for many years, and if it is not available the land is deserted. The production of wood is

in many cases the basis of credit with local merchants.

Poplar wood has a very limited market. As firewood it is very unsatisfactory. As lumber the market is practically non-existent and for domestic consumption as pulpwood, the demand is very low.

Poplar is our fastest growing and most common wood and most unsupervised regeneration of forests result in poplar regardless of previous yield. We are now in a position of having larger and increasing supply of this wood on hand and of having our only large market for it cut off. This can have a very serious effect on the economy of this part of the country, starting with the farmers and settlers and affecting the small business merchant, and professional men in the small communities in which we deal, as well as completely doing away with our own export wood business with resulting loss of revenue to our firm and the loss of a great deal of American currency to the country.

We do not know if the Joint Through International Rates are at question. We cannot recommend too strongly that some action be taken to reduce to a large extent this inequality of rates and the pursuant hardship to shippers of export wood. This action must be taken in conjunction with a close inspection of present internal rates, on which any increase would continue to be disastrous to the pulpwood supply industry and consideration be given to a more reasonable rate in order to start again the flow of poplar to the only market of any size which we have.

All of which is respectfully submitted for

your consideration.

Yours respectfully,

(Sgd.) W. B. Plaunt & Son."

MR. COVERT: Q. Are the other letters to the same effect, Mr. Duffy?

A. The other letters are to the same effect, and I would rather just submit them for the record.

Q. You may hand them to the reporter and they will be copied into the record.

A. They are all along the same line. The second letter is from Mr. Alf. Chenier, Chairman, Federation of Chambers of Commerce, District of Temiscamingue. The third letter is from Oscar and Alex Lafreniere, General Merchants, at Messines, Quebec; while the fourth letter is addressed to Hon. Dr. J. J. McCann, House of Commons, Ottawa, Ontario, by Mr. H. J. Chapeskie. I submit these letters for the record.

"La Chambre de Commerce de Ville-Marie

Ville-Marie, Queb.
Oct. 15th, 1949.

Armstrong Forest Company,

Johnsonburg, U.S.A.

Dear Sirs:-

For many years our district has supplied thousands of cords and millions of cubic feet of pulpwood to the paper industry. More particularly since a couple of decades, our poplar production accounted for a large proportion of our farmers' income.

The recent raise in freight rates will be mainly responsible for the fact that, this year and most probably for the time the actual rates will be maintained, the paper industry will have to supply its mills with wood originating from

neighbouring districts.

The exclusive Canadian Cornwall mill to supply itself of poplar needs an approximate yearly consumption of fifty thousand cords which is amply covered by the vicinity. This leaves most of our Canadian poplar production to be directed towards the U.S. border mills.

Since the life of poplar is well established, in our district, at some twenty years, we now have to admit that, not only will this raise in freight rates abate the revenue of an important portion of our Canadian population, the farmers, but also will probably compromise a crop of most utility.

In another point of view, if railroads need further incomes, it seems to us clear that they should look towards heavy traffic. If a raise in rates is necessary it would be logical that such raise should not apply to matters which could not avail being transported at high rates.

Your company is surely interested in a straitened situation and anything you may see fit to do in this view will be gratefully considered as a contribution to cooperation.

Yours very truly,

(Sgd.) Alf. Chenier,

Chairman,
Federation of Chambers of Commerce,
District of Temisamingue."

" ALEX. LAFRENIERE,

Marchand General,

Messines, Que., Oct. 26, 1949.

The Royal Commission of Transport,
Ottawa.

Gentlemen -

We have been supplying pulpwood for the past ten years to Armstrong Forest Company of Johnsonburg, P.A.

Our 1947-48 contract amounted to bringing \$450,000 American dollars into our section of Canada all of which we are desperately in need of to maintain our standing.

This year we have no contract due to the continued rise in international freight rates. This will have a very serious effect on all business, farmers, doctors, etc. We have been informed by the mills that we have shipped to that they can now secure sufficient wood at a much reduce cost than what we can deliver ours, despite the fact the cost of producing a cord of wood in our district is less than the freight.

The Armstrong Forest Company in the past only consumed a few species of hardwood, but at present are consuming practically every specie of wood available. Therefore the only opportunity we have of continuing to deal with the U.S. mills will be to deliver to them at a price in competitive with their own production.

We are submitting this for your consideration, to which we respectfully hope something can be done to reduce rates, in order to continue doing business in pulpwood.

Yours very truly,

(Sgd.) Oscar Lafreniere

" Alex Lafreniere."

"November 16, 1949.

Hon. Dr. J. J. McCann,
House of Commons,
Ottawa, Ontario.

Honourable Sir:

I believe it is expedient for me to bring to your attention a matter of major importance, as it affects many settlers, farmers, and limit holders, in this area, who depend on some form of income from pulpwood produced and shipped to mills in the U.S.A.

It is common knowledge that shipments of pulpwood are dwindling down to a fraction of what was shipped last year from this area, due to the fact of the unsettled cost of transportation which have taken place over the past eight years. In 1940 I understand the rate on pulpwood to Johnsonburg, Penn., was 25 cts. per cwt., today it is 42 cts. per cwt., plus 6% surcharge or a difference of \$5.95 per cord on poplar pulpwood which weighs approx 3300 lbs. per cord, and the total cost per cord being \$13.86 plus 6% surcharge. for freight charges to Johnsonburg, Penn., while the producer gets \$10.00 per cord.

I learn that the rates applicable to international shipments are set by the Inter-State Commerce Commission and accepted by the railways in Canada.

Would you be good enough to let me know the governing body in Canada who accepts the rates set forth by the Inter-State Commerce Commission. The CNR being a government owned railway may help matters and possibly you have some information with regard to these transactions.

The loss of our market for peeled poplar to USA mills would seriously affect the earning power of this locality when one figures a half-million American dollars coming in for some twenty thousand cords in 1948, and only a fraction going forward since last June, and only a fraction of American dollars coming back to us.

Very truly yours,

H. J. Chapeskie."

CROSS-EXAMINATION BY MR. SINCLAIR

Q. Mr. Duffy, you have been interested in traffic matters for a good number of years?

A. For a while, yes, sir.

Q. And during those years you have had a large number of conferences and discussions with the traffic officers of Canadian railways?

A. That is correct.

Q. And this problem of pulpwood rates from Canadian shipping points to Johnsonburg, Pennsylvania, has been a matter of discussion on a number of occasions?

A. That is correct.

Q. And it is under discussion right at the present time?

A. That is correct.

Q. I understand that on December 19 the Canadian Freight Association made a submission or an offer of of a rate which they agreed they would put into effect, subject to the rate being agreed to by the American lines?

A. I understand that is correct.

Q. And that the American lines are meeting on

February 14, next, to come to a conclusion as to whether that rate will be acceptable to them?

A. I understand that is correct.

Q. And if that rate comes into effect, it will be lower than the present basis?

A. Somewhat.

Q. Somewhat. Now, the rate to Thorold, the Pembroke-Thorold rate which you refer to at the bottom of page 6 of your brief is a manufacturing and transit rate. In other words, the rate is set with the understanding that the carrier will get the haul on the manufactured product out. That is correct, is it not? That is the 18-cent rate?

A. That is correct. Just a second. No, that is not the Manufacturers' Association rate. That is not the manufacturing-reshipping rate. That rate is taken from the lumber tariff. That is the highest basis of rates applicable within the Dominion for the transportation of pulpwood.

Q. I see. Did you advise the Canadian railways that the rate they submitted to you, if put into effect, would be satisfactory?

A. No, sir.

Q. But you accepted it, though?

A. I did, hoping it would do something to stimulate the flow of pulpwood from Canada to the United States.

Q. I think the railways should be very grateful to you for setting out in such clear form the relief the American railroads have secured as compared to what Canadian railroads have secured. You know that the final determination of one of the rate cases is now proceeding.

A. That is correct.

Q. And you always have open to you, have you not, Mr. Duffy, combinations of local rates on and off the border?

A. No, sir.

Q. You have not?

A. No, sir.

Q. Off the Canadian Pacific?

A. No, sir. We have no combinations.

Q. You cannot pick a local rate and then reship?

A. How are we going to get across the border?

Where are we going to ship to?

Q. Can you not ship to a Canadian Pacific point at the border and then rebill and ship on an American road?

A. I would like to have that explained to me, if it can be.

Q. I understand you can ship, let us say, to Montreal, Canadian Pacific, and you take delivery there, and then you could reship?

A. That is correct.

Q. And you could get a combination of local rates?

A. Yes, but what good would it be to you?

Q. But that is open to you?

A. I imagine it is, but I never checked anything, because we still have joint lines on the opposite side of the border.

Q. The reason why you do not take these local combinations and take delivery is because the other rates you are moving on are lower?

A. I would imagine they would be, but I do not know. That is not the case in the cases I have explained to you, and the case in a good many other

instances in the particular territory from which we are drawing pulpwood, out of Ontario and eastern Quebec.

Q. I am only talking about the Canadian Pacific.

A. Well, let me talk generally, then.

Q. No, if you do not mind. There are one or two points I would like to clear up.

A. My testimony deals mostly with rates with Canada.

THE CHAIRMAN: Will you let us know what your theory is, Mr. Sinclair?

MR. SINCLAIR: What I was suggesting, Mr. Chairman, was that these rates are a matter of negotiation between the shippers and the various carriers involved. They are now subject to negotiation; and an offer was made which was accepted by the witness on behalf of his company; and it only remains for the American carriers to deal with it, to see if it will come into effect. The American carriers will consider it at the meeting to be held on the 14th of the month.

THE CHAIRMAN: The offer concerns some rate which would be lower than these two rates?

MR. SINCLAIR: That is right. And my second point was that these through rates are on a lower basis than the combination which could be made by taking delivery at local points, to local points on the Canadian Pacific, and shipping beyond on the American carriers, and making whatever combination they wanted.

THE CHAIRMAN: You say that the part of the haul which would be altogether in Canada would be dearer by local rates than these?

MR. SINCLAIR: These combinations would make.

THE CHAIRMAN: You suggest that possibly shipping up to the border and then to reship to the

United States?

MR. SINCLAIR: Yes.

THE CHAIRMAN: What would be the freight charge up to the border in Canada? Would it be less or more than this through rate?

MR. SINCLAIR: Of course, the through rate is not divided except by negotiation between the carriers. So therefore you cannot make that comparison. The comparison which I suggest you can make is what rate would be available to the shipper by doing what I suggest.

THE CHAIRMAN: Can you not make a comparison on a mileage basis by saying that so many miles in Canada would cost so much on the whole haul, whereas the through rate on the whole haul would be so much more per mile?

MR. SINCLAIR: I suggest no, because different considerations apply. I suggest that if the shipper wishes to take the local rate and take delivery and reship, he has that open to him. The only reason he does not do it is because these through international joint rates are lower than would be made by a combination of local rates on the various railways he would have to ship over.

THE CHAIRMAN: We shall adjourn now until 2.45 p.m.

---At 1 p.m. the Commission adjourned to meet again at 2.45 p.m.

(Page 14218 follows)

A F T E R N O O N S E S S I O NMR. H. E. DUFFY RECALLEDCROSS EXAMINATION BY MR. SINCLAIR RESUMED:

Q. Just before the adjournment, Mr. Duffy, I had asked you about a combination on Montreal where the combination of the locals made it higher than the through rates. Then I would ask you to turn to page 6 of your Brief where you give an instance of where the combination of intermediates makes lower, that is, via Montreal it would make higher, and therefore you would take the through rates. On these examples you have here a combination would make lower and one would expect you to take the combination, but you say that you are not allowed to take them. It would defeat the through rate?

A. That is correct.

Q. Is there anything that would prevent you from taking a shipment from Pembroke, billing to Thorold, taking delivery at Thorold, billing it from Thorold to Suspension Bridge, taking delivery there and billing it from there to destination?

A. I don't see anything - -

THE CHAIRMAN: What is the answer?

A. I don't see anything that would prevent the possibility of doing that other than the cost of it.

THE CHAIRMAN: What would be the consequence?

MR. SINCLAIR: The effect rate-wise, he would get the 41 cent rate as compared with 42 on the combination.

THE CHAIRMAN: Would there be other costs involved?

MR. SINCLAIR: His organization costs of taking delivery and re-billing and giving instructions.

THE WITNESS: I would have to establish an office at Thorold to accept delivery and make payment of freight charges, and then I would have to re-bill them from there to Suspension Bridge; then take another office there to establish and credit and pay my freight charges and re-bill from there to Johnsonburg Pennsylvania, which would be a tremendous expense and the saving would not offset or would not come close to offsetting the cost.

MR. SINCLAIR: Q. And therefore you take the through rates?

A. That is correct.

Q. My understanding, Mr. Duffy, is that the proposition that is put forward to you by the Canadian railways and which you accepted and which is now before the American carriers for acceptance on the 14th of this month, will take care of any of those cases?

A. No, it will not.

Q. It will not?

A. No, sir.

Q. Will there still be some exceptions?

A. There will still be exceptions to the rate.

Q. But you recognize, do you not, that these joint through international rates are a matter of negotiations involving a great number of parties and quite a number of railways?

A. Well, I don't want to go that far with you. I think that negotiations for freight rates from the Canadian National Railways, Canadian Pacific Railway, the Ontario Northern Railroad which are the railroads we are definitely interested in, I think it is a matter of the railways getting together and deciding on what they can establish as a just basis of rates on international traffic, submitting the proposal to their own committee and having it

approved, and then submitting that proposal to the Trunk Line Committee for the interests of the Erie Railroad, Baltimore and Ohio Railroad the Pennsylvania Railroad, the New York Central and the D & H Railway. Those are the prime factors in any rate accepted on the Trunk Line side, on the American side, by the Trunk Line Committee.

Q. They are the governing factors?

A. That is correct.

Q. The American lines are the governing factors.

A. No, the American lines accept no responsibilities for the basis of the rates that are suggested or proposed, but of course, they do concur in the basis that may be proposed by the Canadian carriers because of the fact that the traffic originates in Canada and the originating carrier is the one who suggests the basis.

Q. The Interstate Commerce Commission have jurisdiction to pass on the reasonableness of any rates from the border to destination in the United States?

A. That is correct.

Q. And the Canadian Board of Transport Commissioners have complete and unfettered jurisdiction over the rates from the origin point in Canada to the border of Canada?

A. To the border, that is correct.

Q. So that the two local rates are completely within the jurisdiction of regulatory bodies.

A. That is correct.

Q. And with those odd exceptions that you make reference to, the rule is that the through rates make lower than the combinations.

A. No.

Q. With those exceptions, I said.

A. I know, but I have only mentioned a few of the exceptions. I do say that the application of all intermediate rates would make a tremendous amount of points from which - -

THE CHAIRMAN: What is that you are saying? Speak a little louder.

A. I beg your pardon. The application of the intermediates would create a tremendous amount of points from which the combinations of rates would be lower than the present through rates.

Q. Is that what you want done?

A. No, sir, I am not suggesting -

Q. What do you want done? What is your proposal here?

A. I have no definite proposal.

Q. You see, here is the rate established by the United States organization and you wire the Board here asking them not to accept it for Canada. What do you want done, and if they don't accept it what is your alternative?

A. My alternative, in that case, Mr. Commissioner, would be this, that a definite basis of rates which are comparable mile for mile to those rates which are established for the movement of pulpwood within Canada, be made applicable to the movement of international shipments on the same basis, but, those rates be established as through international rates rather than combinations over the border.

Q. Yes, but who would establish those rates?

A. The Canadian carriers would have to propose the rates and submit that basis of rates to the American

carriers for their concurrence, just exactly the same as they did when they established the basis that is now in effect which is the Interstate Commerce Commission docket scale I.C.C. 14883 which is the highest published scale of rates applying on pulpwood within the United States. The Canadian carriers and the American carriers agreed in 1942 I believe, that they would establish rates based on 125 percent. of the 14883 scale which was the highest scale applicable on pulpwood and approved by the Interstate Commerce Commission within the United States.

COMMISSIONER ANGUS: Was that the American portion of the rates?

A. That was the through international rates applying from the point of origin within Canada to the destination point within the United States, Johnsonburg, Pennsylvania.

Q. Is there any way of separating the Canadian portion from the American portion?

A. Definitely there is.

Q. On what basis?

A. On the division basis that the carriers have agreed upon.

Q. Is that known?

THE CHAIRMAN: You don't know what that basis is, do you, Mr. Duffy?

A. Yes.

Q. You do know. What is it?

A. Mr. Commissioner, by way of explanation, let me state that when the United States Government put a transportation tax on transportation, that law read that only that portion of the transportation charge which

accrued to American carriers, was taxable. We were shipping pulpwood shipments from the Dominion of Canada at that time on a collect basis, that is, transportation charges were being paid within the United States, and when transportation bills were submitted to my office for transportation tax I refused to pay the tax until I was shown upon what portion of the transportation the tax was accrued. So in view of that the American carriers gave me their division of the rates that applied from Canada, that is, the portion of the rate which accrued to the American carriers and we paid the 3 percent. transportation tax on that particular portion.

Now, from Connaught, Ontario, which is our own shipping point, the portion that accrues to the United States lines on the transportation cost is 30 percent. of the rate via Cobourg Car Ferry, that is through Cobourg, Ontario, across Lake Ontario to Genesee Docks and then Baltimore and Ohio Railway to Johnsonburg Pennsylvania. That would leave 70 percent. accruing to the Canadian carriers, and of course there would necessarily have to be a division between the Canadian carriers who handle that rate.

Q. What about the respective mileages in the United States and Canada?

A. The mileage from Cobourg Car Ferry, the total mileage is 600 - - I think the total mileage for 30 percent. of the present rate of 43 cents applicable from Connaught into Johnsonburg Pennsylvania via Cobourg Car Ferry, the American carriers are involved in 173.1 miles.

THE CHAIRMAN: And the Canadian cars?

A. And the Canadian cars would be involved in 504 miles.

Q. That is, the Canadian railways carried the goods 504 miles and the American railways 173.1 miles and the American railways got 30 per cent of the rates and the Canadian 70 per cent. Is that in proportion to the respective mileages?

A. Not with the mileages, I would not say.

Q. Now, what is it you would have done? You would have these two carriers --

A. We have already submitted proposals to the Canadian carriers.

Q. What are your proposals?

A. Our proposals were based on the Bailey scale which is a scale which is applicable for pulpwood within trunk line territory on the United States side and we projected that mileage through to cover all origin points within Ontario and Quebec and asked the Canadian carriers to establish rates mile for mile on that basis which is higher than the rates which are mile for mile within Canada allowing of the increases that have been approved by the Interstate Commerce Commission to apply on the solid basic rate.

Q. And what answer did they give you on that?

A. They said that they could not possibly see their way clear to do it. However it would be higher than the rates within Canada.

Q. What about that, Mr. Sinclair?

MR. SINCLAIR: Well, my lord, the matter is a matter of negotiation, I submit, between the shippers and the carriers and the railroads in Canada and the United States and the best offer that the Canadian railways

felt they could make was made to the Armstrong people and it was accepted by them and it is now before the American carriers and we have no assurance that the American carriers will accept it but we hope that they will so that these rates that are now being proposed by the Canadian carriers following negotiations with Mr. Duffy and his associates will become the effective rates.

THE CHAIRMAN: In that case jointly they would be less than the present through rate?

MR. SINCLAIR: Yes.

THE CHAIRMAN: Well, apparently the matter is not definitely closed against you?

A. It is not definitely closed against me, Mr. Commissioner, but you must remember that as I said today the rates in Canada are based on 125 per cent of 14883. Now, I asked the Canadian carriers to go to the Bailey scale or at least to give me the flat 14883 scale and what the Canadian carriers have approved and have submitted to the trunk line carriers for their concurrence is 110 per cent of the present 14883 scale including all increases that have been allowed by the Interstate Commerce Commission. In other words, they have done nothing. Your lines then decreased the present rates 15 per cent where there was a chance to decrease it 15 per cent.

Q. They are not doing what you want ^{them} to do?

A. Their proposal still makes the rates prohibitive.

Q. Now, what is it you want us to do about it?

You see, we are not fixing rates, as you know. What principle is involved there that you think is wrong? ^{to do anything more}

A. I am not asking your honourable commission/than to try and enlighten you on a situation which I feel is affecting the economy of Canada. We have so many dollars to spend in Canada and we have taken so many cords of wood

out of Canada each year. During the war years we were allocated much less wood than we could have taken if we could have had it. This year our allocation is back up. During last year we took out around 125,000 cords. In 1949 we took 110,000 cords. In 1950 we are not taking out any wood at all because of the effect of transportation costs. We cannot take it out. As a matter of fact, I said in my direct testimony, I believe, that in one or two instances where we had contracts for woods, we came into Canada through our representative in Canada and we sold the wood which was contracted for for shipment to Johnsonburg to a Canadian company to escape the high transportation on the wood.

COMMISSIONER ANGUS: When it is said you accepted the offer of the Canadian railways, am I right in understanding that you accepted it because it was an alternative to this position taken by the Board of Transport Commissioners, a position which you think ought not to have been taken?

A. Mr. Commissioner, I do not mean to convey that idea to the Commission. I think this morning I answered that very same question by saying that we did not accept the rates which were offered but we suggested to the Canadian carriers that in an effort to try to continue the movement of pulpwood from Canada today that they establish those rates and if it did nothing more than to prove to them definitely that they had to go further in order to allow us to do business in Canada, it would at least be proving something that they evidently did not believe when I told them that that basis would not continue the movement of pulpwood.

Now, the proof of the pudding will be whether or not the pulpwood continues to move and on the present

rate basis, as I told Mr. R. P. C. McLeod, Traffic Manager of the Ontario Northland Railway when he came into my room in the Biltmore Hotel and told me what the carriers had decided upon, I said: "Well, Rod, if that is the best you can do, I suggest that you publish it but I am terribly afraid it is not going to be the answer."

Now, I have nothing to suggest to your Honourable Commission as to what you might do or what you might recommend to straighten the situation out other than the fact that I do think that while you cannot recommend scales for railroads to adopt, that something should be done if you feel that you still want the Canadian pulpwood to move to the pulpwood consuming point in the United States that I represent.

MR. SINCLAIR: There was only one further thing that I wished to put on the record in connection with this matter, my lord, and that is this morning in dealing with this 18 cent rate to Thorold I asked the witness if it was the manufacturing re-shipment rate and he said: "No." I have now got the tariff and he is correct; it is not so designated as a manufacturing re-shipment rate but I think, by looking at the tariff, it will be seen that these rates are commodity rates, published from, for instance, Pembroke to Thorold at 18 cents and all that is there is a mill from which there would be a movement of paper out and that, I suggest, is the reason why the scale is at 18 cents.

CROSS-EXAMINATION BY MR. FRIEL

Q. I just have a couple of questions. This reduced scale proposed by the Canadian Freight Association and which is to be concurred in by the American railroads

before it comes into effect, will there be any situation still existing whereby a combination of locals will be less than the through rate?

A. I understand that there will be.

Q. Can you give any examples?

A. I do not have ^{any} no sir.

Q. I am instructed that there will not be any.

A. We have not checked the tariffs to determine definitely whether or not this proposal will remove the situation in its entirety but because of the fact that we have a forty-seven cent rate --

Q. It just boils down to this, then, that you do not know whether it will or not?

A. That is correct. I would say I do not know but my knowledge of traffic will lead me to believe that there will still be examples.

Q. Now, you told the Chairman how ^{much} / pulpwood you exported last year and the year before. I did not hear you very well; you had your head turned the other way. What will you export in 1950 -- this year?

A. We have not a contract left for a stick of wood to move from Canada. We are not preparing any wood on the T. S. Woollings lands today and we have no contract for any pulpwood leaving Canada today for 1950.

Q. Is that entirely to be ascribed to the freight rate?

A. That is correct.

Q. Market conditions have nothing to do with that?

A. Market conditions are still competitive and are the same today as they were in 1917 when we first purchased wood in Canada.

Q. And your company is?

A. T. S. Woollings and Company, Limited.

Q. Offices located in South Porcupine, Ontario which is a Canadian subsidiary of the Armstrong Forest Company?

A. That is correct.

Q. Now, is the Armstrong Forest Company in turn a subsidiary of the New York and Pennsylvania Company Incorporated?

A. The Armstrong Forest Company is a wood procuring organization who procure all of the wood for the New York and Pennsylvania Company. They are an independent organization.

Q. Are they connected in any way?

A. Definitely, they have the same officers as the New York and Pennsylvania Company?

Q. And is the New York and Pennsylvania Company in turn controlled by any other company?

A. No sir.

Q. So, whether the pulpwood actually moves out of Canada or not depends entirely on yourself, does it not? You can pay the freight rate; you can buy the wood or not buy it, whatever pleases you?

A. Definitely.

Q. The buying here in Canada is all for the parent company really?

A. The New York and Pennsylvania Company Incorporated, that is correct.

Q. Are you paying increased prices for your pulpwood?

A. No.

Q. When was the last increase you gave them?

A. We are paying the market price, sir.

Q. Well, what has happened to that market price for pulpwood within the last few years?

A. I do not know; I am not a wood buyer.

Q. Do you know, however, whether it has been increased drastically within the last five years?

A. I would say from my own knowledge and from the average run of business prices today, it was just the reverse.

Q. It has gone down?

A. It has gone down.

Q. How about the last ten year period?

A. I am sorry; I am talking about traffic and that is all I have mentioned. I do not know; I am not a wood buyer.

Q. Do you anticipate, if this rate is accepted by the American carriers, that the traffic will move and that you will give contracts next year?

A. I am very much afraid that we will not.

Q. Do you think the traffic is remunerative to the railways?

A. I definitely do, based on other traffic they are handling today.

Q. And if the traffic does not improve you would anticipate the railways would have to give you a reduction if they want to get that remunerative traffic?

A. If they want the traffic, they will have to, yes.

Q. So, if you yourself, your companies, refuse to move that traffic for a year or two, you would improve your bargaining position considerably?

A. Now, you are trying to get me to say things I am not trying to say. I have kept to railroad rates.

THE CHAIRMAN: Mr. Duffy, please turn around so we can see you.

A. I have definitely kept the railway companies informed by sending them information^m that has been released by the Forest Department of the State of Pennsylvania, and by our United States Federal Government Forest Department

As a matter of fact, I flooded them here for awhile with it showing what the situation was with respect to the pulpwood within reach of our own mills -- within 50 miles of our own mills today and we are not trying to force the railways to do anything.

(Page 14235 follows)

We have laid the proposition before the railway companies, and I think in all fairness to the New York & Pennsylvania Company, to the Armstrong Forest Company, to the T. C. Woollings Company, and the Canadian railroads and the Canadian government, it is up to the Canadian railroads and the Canadian government to decide whether or not we are going to take pulpwood out of Canada. If they want us to take it out of Canada and we can take it out at a cost that is comparable, we are perfectly willing to come into Canada.

Q. The Canadian railways apparently believe that 110 per cent of this rate as covered by docket 14883 will move the traffic?

A. They apparently believe that is the answer to their problem.

Q. We will hope it is.

A. I hope so, but I am afraid.

EXAMINATION BY MR. COVERT:

Q. There are a few questions, Mr. Duffy, that I want to ask you. I suppose it is not proper to compare the rates on this pulpwood that you have been moving over a period of years from Canada to the United States with the rates on pulpwood to a pulp mill in Canada, is it?

A. Well, in all fairness to the railroads -- and I have always tried to be honest and fair with them in all my dealings -- I would say no, it is not fair because after all to-day --

Q. They may give a low rate on that in order to secure regular traffic?

A. That is right. To-day we do have one of our mills taking Canadian pulpwood 100 per cent from Canada

into our mills and shipping the finished product back into C.F.A. territory, and we route that by the differential rate for two reasons. The first and foremost is to give the Canadian railroads that traffic to which under normal conditions they are not entitled. Is that a correct statement, Mr. Jefferson? When you are using the differential rate you are not entitled to that traffic, are you? You are not entitled to it. Under ordinary circumstances it would route via the direct route which would keep it off Canadian roads.

MR. FRIEL: Did you hear Mr. Jefferson's answer? He said "Yes, it would."

THE WITNESS: It would. Then we will take your answer to that question, that it would. The second is that the differential rate is a cent under the standard rate. Those are the two reasons why we move our wood pulp through Canada back into C.F.A. territory. We are giving Canadian carriers the haul on Canadian pulpwood that has been manufactured or further processed from the raw material, the same as any Canadian mill which might be manufacturing the same commodity within Canada.

MR. COVERT: Q. This pulpwood that you ship is used for high grade printing papers?

A. That is correct.

Q. And is there a duty on that from --

A. No, sir.

Q. Not on the wood, but for instance on high grade paper if it were manufactured in Canada and shipped into the United States, is there a duty on that?

A. I do not believe there is. That is imported into the United States?

Q. Yes.

A. I do not believe there is; I am not sure.

Q. I just wondered if that was the case. You do not know?

A. I am not sure, but I know on newsprint there is not a duty. One of these railroad attorneys should be able to answer that question and clear it up for us.

Q. Do you know whether or not there is a duty --

A. Newsprint or high grade printing papers, which are very scarce in Canada, moving from Canada into the United States -- you want to know whether there is a duty?

Q. I understand that there is none on newsprint, but I want to know about high grade printing paper.

A. I would say no.

MR. JEFFERSON: There is a duty on high grade paper.

THE CHAIRMAN: There is a United States duty; there is an American duty?

MR. JEFFERSON: Yes, sir, on the high grade paper.

THE CHAIRMAN: Entering the United States.

THE WITNESS: That may be; I cannot answer the question. I am sorry, sir.

MR. COVERT: Q. There is one other point. I suppose you recognize the difficulties that there are in establishing joint through rates. There must be agreement really between the American and Canadian railways in effect, must there not?

A. That is correct, but when you refer to it as "difficulties" I think you are carrying it a little bit far. The Canadian carriers agree on something and they submit it to the American carriers and nine times out of ten it is me too.

Q. If they get an increase in freight rates in the United States and they do not get a similar increase on

the joint through rate in Canada, would there not be some difficulty about agreement between the American and Canadian roads?

A. Well, the American carriers petition the Interstate Commerce Commission for an increase in freight rates. The Commission probably give them immediate consideration and grant an interim increase for the present pending their investigation. It costs the American carriers thousands and thousands and thousands of dollars to proceed before the Interstate Commerce Commission in progressing their case for an increase. Finally when the ultimate decision of the Interstate Commerce Commission is reached they say, as they have said in their last two general increase decisions, that those freight rates may be increased to the extent of the transportation that takes place wholly within the United States, or in other words to the limit of their jurisdiction which is the border. The Canadian Transportation Commission have had absolutely no access or have not heard -- probably they have dispatched one of their commissioners down to listen to the testimony, but they come back and they say we too. It does not appear to be fair because the Interstate Commerce Commission has no jurisdiction over rates within Canada, and the Canadian Commission have no jurisdiction over rates within the United States. Therefore why should a decision that is arrived at by the Interstate Commerce Commission, and which is determined on evidence and discussion presented by the American carriers before the Commission -- why should Canadian carriers be entitled to the same increase in their rates until and unless there is definite proof that the financial need -- that the need is necessary, and proceed in the same

manner that the American carriers progress their case before the Interstate Commerce Commission?

Q. Is that the remedy that you suggest, that before a comparable increase is taken by the Canadian roads on these joint through international rates there must be a hearing before --

A. I am not suggesting that, sir, but we are asking for it.

THE CHAIRMAN: Q. As a matter of fact, there is some motion made before the Canadian Board does ratify the increase?

A. On motion only.

Q. Is there not an opportunity there to be heard?

A. No, sir.

Q. Why?

A. Because the Interstate Commerce Commission decision became effective on the 12th and the Canadian Transportation Commission approved the increase on the 13th.

Q. I should like to know what form the action taken by the Canadian Transportation Board takes?

MR. SINCLAIR: The railways make application to the Board for an increase.

THE CHAIRMAN: Consequent upon the United States action?

MR. SINCLAIR: That is right.

THE CHAIRMAN: What happens before our Board?

MR. SINCLAIR: Over a long period the Board has recognized the necessity, as they said in one of the letters, to keep the situation in status quo and they follow --

THE CHAIRMAN: They will not hear any arguments to the contrary?

MR. SINCLAIR: They have heard them. There is really nothing new to offer on the subject.

THE CHAIRMAN: There might be evidence. As Mr. Duffy says, the American applicants have to establish by evidence to the Interstate Commerce Commission that these rates should be increased. If they are just increased automatically here because certain evidence justified their increase in the United States, how do you justify that?

MR. SINCLAIR: I think that possibly the answer is that these through rates are set up on routes over which the American carriers, as destination carriers, have control. They can take out these through routes any time they wish, if they are not satisfied with the rates they are getting under them, and rely on the shippers, if the traffic will move, working combinations on and off the border.

THE CHAIRMAN: Yes.

MR. SINCLAIR: This is the same kind of thought that was put up by Mr. Ewar, I believe it was, when the Commission was in Vancouver, and in other submissions that were made on proportionate rates on international traffic. The result would be that the American carriers would take the entire amount of the increase, the shipper would pay the same rate, and the Canadian carrier would get no proportion of it.

THE CHAIRMAN: Is the converse true? Does our Board give through rates that the United States Board then automatically confirms too?

MR. SINCLAIR: Yes, Mr. Chairman.

THE CHAIRMAN: That takes place too?

MR. SINCLAIR: Yes.

THE CHAIRMAN: Can you give me an example of that?

MR. SINCLAIR: I do not know one offhand. I am sure Mr. Jefferson --

THE CHAIRMAN: You can furnish it?

MR. SINCLAIR: On rates on fruits, vegetables and lumber I am instructed -- and livestock -- that when the Canadian rates went up -- could we wait and see the transcript? I will have Mr. Jefferson look at it.

THE CHAIRMAN: It is of some importance because we are specifically asked to inquire into international rates. Tell me at the same time, do these rates run in both directions?

MR. SINCLAIR: Not necessarily.

THE CHAIRMAN: As long as you are going to prepare a statement for us, take that into consideration too.

MR. SINCLAIR: Yes.

THE CHAIRMAN: Whether they apply only on goods coming from the United States to Canada or whether they apply --

MR. SINCLAIR: I think I can clear that up now. There are through rates from Canada to the United States, and there are also through rates on shipments from the United States to Canada in certain instances. It does not necessarily follow that there is full scale in both directions.

THE CHAIRMAN: We would like to know about it.

MR. SINCLAIR: I will get instructions and make a statement to-morrow.

MR. COVERT: My understanding is there has not been the reverse case because our rates have always lagged behind United States.

Q. It seemed to me during Mr. Sinclair's statement

Mr. Duffy looked to me as if he disagreed with what Mr. Sinclair said.

A. I do not want to disagree with the learned attorney.

MR. SINCLAIR: I will get instructions.

THE WITNESS: There is just one thing, and I believe Mr. Jefferson will bear this out. The attorney said that if the Canadian carriers did not accept this increase the American carriers would take the full increase on the through rate for themselves. I think that is cleared up in the Commission's decision when they say the joint through rate or factors of combination rates which are used in the movement of traffic to or from Canada or Mexico may be increased to the extent of their jurisdiction, which means that only that portion of the rate which accrues to the American carriers will be increased under their decision, and not the full measure of the rate from point of origin to point of destination and have it all accrue to the American carriers. They would only get the increase on their portion of the rate.

THE CHAIRMAN: Q. On their portion; you mean mileage portion?

A. I mean on the agreed divisions between the carriers.

Q. On the agreed divisions between the American and the Canadian railways?

A. That is correct.

MR. COVERT: Q. There is just one more point, if I can put this to you clearly. Suppose you have a point in Canada which we will call "C" to a border point which we will call "B", and then to a point in the United States which we will call "X". You get a joint through rate CBX. You have in the United States point "U" which

is equi-distant from "B", the border point. If there is pulpwood produced at "U" similar to point "C" that would present some difficulty if the American rate from "U" to "X" was greater than from "C" to "X", would it not?

A. Well, yes, because you have a line there that you cannot get across, the border line. There is ~~nothing~~ provided to take that car of wood from here to here.

Q. Now, if the same distance from "U" to "X" was one straight line -- not to a border point -- you have a situation where the rate from "C" in Canada through "B" to "X" could not properly be less than from "U" to "X". Is that not right? Would that not be unfair to the American roads?

A. Well, I am confused on your figures. Suppose you take a point, Ottawa, Ontario.

Q. Yes?

A. You take that down to Fort Erie -- I am trying to interpret your question.

(Page 14245 follows)

You have a rate of 20 cents. And then you have a point from Ottawa to Johnsonburg, and that rate is 26 cents; and the Canadian carriers' portion of that rate would be, let us say, 20 cents, and the American carriers' would be 6 cents.

Now, if that rate was comparable to the mileage scales that are applicable to the movement of that wood from the point of entry into the United States to the destination, that would be a fair rate.

Q. Yes.

A. If the point from Ottawa to Fort Erie is a 20-cent rate, and if that was lower than your local rates, to the normal rate-making situation, that would be a fair rate if it were lower. But when it gets to be even or higher, then it is an unfair rate because, if you are shipping something for export, the rate to the point of export is cheaper than the local rate would be, than if the commodity was manufactured at the port.

Q. Take the illustration you have used, from Ottawa to Fort Erie to Johnsonburg; and take a point in the United States equi-distant from Johnsonburg as Ottawa. If the rate from Ottawa to Fort Erie, that is the Canadian portion of the rate, were not increased to the same extent, so that the joint through rate was at least equal to the rate from the point in the United States to Johnsonburg equi-distant, would not that be an unfair rate from the point of view of the American carrier?

A. I am sorry, but I cannot tell you what the American carrier might feel about it. But speaking personally, for distances wholly within the United States for which freight rates are made on pulpwood,

and the distance is wholly within Canada on which pulpwood rates are made, today's rates are bound to be 25 cents higher than the rates used in the United States because they are based on 125 per cent of the present going scale within the United States.

Q. Just one more question. If the bulk rates were put on the same scale, and then there was another 30 per cent increase in the United States, what should be done here?

A. If it was definitely proved to the United States consumers of pulpwood that the Canadian carriers needed the 30 per cent increase, I do not think there would be any question. We have never argued with the United States Interstate Commerce Commission when they increased the rates generally within the United States. The American Pulp Association has always agreed to go along with the increases and with the Interstate Commerce Commission's decisions, but it may be that the Canadian carriers are in need of money. We do not know. But we dislike very much the Canadian carriers accepting these increases, the increase on the joint through international rates, in the manner in which they have increased them, when they allow pulpwood within Canada which we are buying on a competitive basis to move on a 30.68 per cent increase and charge us a 65 per cent increase. That is one of the main objections.

And we object to it because we have never had an opportunity to appear before this Commission to substantiate, or to have the carriers substantiate the need for this money before they accepted the increases prescribed by the Interstate Commerce Commission to apply to United States railroads, where a definite proof of need was made.

Q. That was the reason I asked you whether rates in Canada were properly comparable except on a haul both ways?

A. The traffic has to move and we have endeavoured to give the Canadian lines every pound of finished traffic we could give them, of finished products manufactured out of Canadian pulpwoods, and we do a fairly decent job.

COMMISSIONER INNIS: Is there any possibility of joint hearings between the Board of Transport Commissioners and the Interstate Commerce Commission?

A. I have never heard of it.

Q. Is there any possibility of setting up some sort of machinery?

A. I will have to refer to Mr. Jefferson because he has forgotten more about traffic than I will ever know. Personally, I have never heard of a joint meeting between the Board of Transport Commissioners and the Interstate Commerce Commission. But I believe in every general freight rate increase that has progressed before the Interstate Commerce Commission, that the Board of Transport Commissioners appoint one of their members to sit with the Interstate Commerce Commission, when it is convenient, to listen to the testimony that is being presented by the American carriers. Is that right or wrong, Mr. Jefferson?

MR. JEFFERSON: No.

THE WITNESS: I am sorry. But I must say that I do not know of any instance where the Board of Transport Commissioners has ever sat with the Interstate Commerce Commission.

COMMISSIONER INNIS: Q. The result would possibly be to squeeze the Canadian producers of

The first part of the paper is devoted to the study of the properties of the function $f(x)$ defined by the equation $f(x) = \int_0^x f(t) dt$. It is shown that $f(x)$ is a continuous function and that it satisfies the differential equation $f'(x) = f(x)$. The solution of this equation is $f(x) = Ce^{x^2/2}$, where C is a constant. The value of C is determined by the initial condition $f(0) = 1$, which gives $C = 2$. Therefore, the function $f(x)$ is $f(x) = 2e^{x^2/2}$.

In the second part of the paper, we consider the problem of finding the maximum and minimum values of the function $f(x)$ on the interval $[0, 1]$. It is shown that the function $f(x)$ is increasing on this interval, and therefore, its maximum value is attained at $x = 1$ and its minimum value is attained at $x = 0$. The maximum value is $f(1) = 2e^{1/2}$ and the minimum value is $f(0) = 1$.

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pulpwood. Is there no way by which some sort of compromise might be reached between the two groups, or have you thought that far?

A. I do not believe that the export of pulpwood, of which I speak, is squeezing any Canadian consumer of pulpwood, because there is very little of the pulpwood which I am discussing here today consumed within the Dominion of Canada.

Q. Would you say they are being squeezed to the extent that they cannot ship pulpwood?

A. I would say that the producers of pulpwood are being squeezed to that extent, or because the cost of transportation is so great.

Q. That is right?

A. That is right, yes, sir.

Q. I am just asking whether you had thought sufficiently about it. This is not a new case; had you thought in terms of some machinery which might be set up to handle this problem?

A. Well, let me tell you that in my humble position, and with my knowledge of the government of Canada, I assure you that I would not want to make any suggestion as to what might be set up. I appear here today to acquaint you with the facts and to tell you that one of your biggest pulpwood consumers in the United States has been definitely driven out of Canada, not for a year or for two years.

Some time ago we took about 80,000 cords of pulpwood out of Canada to our Lockhaven mill and at the time we asked for adjustment in the Lockhaven rates. But our request fell upon deaf ears. And since then we have not moved one stick of it.

MR. FRIEL: Q. Did devaluation not help you any?

A. No, sir.

Q. It is quite an item on cordwood.

A. Not when you pay 7 per cent surcharge.

Devaluation does not mean very much in that case.

COMMISSIONER INNIS: Q. The Canadian producers and railways, presumably, are being penalized by increases on American roads over which they and you have no control.

A. That is correct.

MR. SINCLAIR: I think, sir, that possibly you have overlooked the fact that the American carriers petition the Board of Transport Commissioners for these increases on the joint international through rates.

THE CHAIRMAN: Would you mind repeating that?

MR. SINCLAIR: When the American carriers petition or apply to the Canadian Board on these applications for increases on joint through international rates --

THE CHAIRMAN: You mean that they apply to the Canadian Board at the same time that they apply to their own Board?

MR. SINCLAIR: Yes, sir.

THE CHAIRMAN: And give them the same evidence?

MR. SINCLAIR: I think the point is -- the reason why the Canadian Board, for reasons of continuity agree to maintain the level of these through rates to the United States.

THE CHAIRMAN: If there is any agreement outstanding between the two boards we would like to have it. Do you know anything about that, Mr. Covert, whether there is any agreement between these two boards, the American and the Canadian, in respect to international rates, the through rates?

MR. COVERT: No, Mr. Chairman.

THE CHAIRMAN: Because if there is, we should know about it.

MR. SINCLAIR: It is a matter of practice only, as I understand it.

THE CHAIRMAN: Well, practice might set up a sort of agreement.

COMMISSIONER INNIS: It is conventional.

THE CHAIRMAN: Yes. Something occurs here and you find increases sanctioned by the American Board and automatically adopted by our Board, and according to what you tell me, it works vice versa.

MR. SINCLAIR: I understand that in theory that has been the situation; but there has never been a rejection of an American increase, because the American carriers always got their increases earlier and faster than we did in Canada.

THE CHAIRMAN: You mean they applied earlier?

MR. SINCLAIR: They got faster relief, even though they applied later.

THE WITNESS: If you check the records, you will find that there was a pulpwood case in 1926 or 1927; and if my memory serves correctly, the Transport Commission of Canada dismissed the case on the ground that they had no jurisdiction.

MR. SINCLAIR: Q. They had no jurisdiction over the through rate?

A. Then we move on to the Interstate Commerce Commission with the same case, and they dismissed the case because they had no jurisdiction.

THE CHAIRMAN: That is part of the inquiry. Does anybody else wish to question this witness?

MR. COVRT: No. I think that is all.

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MR. COVERT: Mr. Chairman, the next one is that of the National Livestock Records and the Holstein-Friesian Association of Canada.

MR. JOHN ERNEST POWELL CALLED

EXAMINATION BY MR. COVERT:

Q. Would you give your name to the reporter?

A. John Ernest Powell.

Q. Mr. Powell, you are the Secretary of the Holstein-Friesian -

A. No, I am an extension worker for the Holstein-Friesian Association of Canada, and at present I am acting as Secretary of this joint committee representing the National Livestock Records and the Holstein-Friesian Association of Canada.

Q. They have formed a committee on rates?

A. That is right.

Q. Now, you have a Brief. Do you want to read that into the record, Mr. Powell?

A. That is right.

INTRODUCTION

Notices received March 23, 1949, from the Chairmen of the Canadian Freight Associations, Eastern and Western Lines, stating that the special freight rates applicable to Pedigreed Live Stock for breeding purposes (Tariffs numbers 5H and 183-C respectively) were to be cancelled effective May 15, 1949, caused considerable alarm to breeders of pedigreed live stock throughout the Dominion. These rates which have been in effect for nearly fifty years were thus to be cancelled summarily without consultation with livestock organizations.

At the Annual Meeting of the Canadian Live Stock Records

held March 29, in Toronto, the concern of the breeders was expressed by representatives of the breed associations to Mr. G. F. Smith, Chairman of the Canadian Freight Association, Eastern Lines. The meeting appointed a committee to deal further with the matter. A postponement of the effective date from May 15 to December 31, 1949, was requested in order that enough time would be available to collect information which could be used for a full discussion with railway officials. This request was not favourably considered, although the effective date was moved forward to May 31, 1949.

On May 27, 1949, the Committee representing the Canadian National Live Stock Records met in Montreal with representatives of the C.P.R., C.N.R. and Canadian Freight Association, Eastern Lines. Following this meeting it was re-affirmed by G. F. Smith that the special rates were cancelled effective May 31, 1949.

162% INCREASE SINCE MARCH 1948

The actual increase in purebred rates since March 1948 is from \$.50 to \$1.31 or 162 percent. as indicated by the following rate figures:

	<u>March 1948</u>	<u>April 8 1948</u>	<u>June 30 1949</u>	<u>Oct. 11 1949</u>
Regular Rate per cwt.	\$1.00	\$1.21	\$1.21	\$1.31
Purebred rate per cwt. (Half regular rate)	\$.50	\$.61	* \$1.21	\$1.31

* This is when the half rate was taken off.

REASON FOR CANCELLATION

The Canadian Freight Association gives the following reason for cancellation of the special rates - "a review

of the revenue derived from this traffic has shown that the reduced basis is not compensatory for the service involved."

SPECIAL RATES NOT EXPECTED TO BE COMPENSATORY

The reason quoted by the Canadian Freight Association for the cancellation shows a lack of appreciation of the reasons for originally putting these reduced rates into effect. This type of traffic could never be expected to be fully compensatory. Rather the reduced rates were introduced to encourage the movement of high class pedigreed stock throughout the Dominion, as the basis of an effective and profitable business which has developed a heavy traffic for the railways in both livestock and livestock products. The revenue lost by the railways in thus encouraging the distribution of better seed-stock has been small in relation to the increased business received from the live stock industry.

ENCOURAGEMENT OF LIVE STOCK RAISING

Livestock is the sheet anchor of a diversified and stable agriculture. Authorities are agreed that a balanced agricultural economy in Canada is dependent upon the maintenance of live stock production as the most important element in our farming program. In 1948 well over half of the total farm income was derived from live stock and live stock products.

The use of livestock returns to the soil much of its value that in cash and grain crops is lost. This helps guard against eroded, worn out and abandoned farms, from which little or no revenue accrues to anyone.

Livestock provides a more stable type of agricultural economy than other types of farming - production and income are maintained year after year on a much more uniform and regular basis.

Greater stability and regular income makes for a more prosperous populace which over a period of years means greater revenue to public carriers in every way.

PUBLIC RELATIONS

For fifty years the fullest co-operation has been maintained between the railways, Government Departments and other national agencies in a progressive program to increase the production of livestock in Canada. This has never been of greater importance or more necessary than at the present time. One of the major contributions of the railways has been made through the reduced rates on the shipping of pure bred livestock, and the cancellation of these rates would seem to be a withdrawal of support from what has been an eminently successful partnership.

The Railway Shipping Vouchers which are attached to all registration certificates of pedigreed animals are a constant reminder to farmers throughout the Dominion of the interest of the railways in fostering the live stock industry. If these shipping Vouchers are no longer attached to the registration certificates the railways will have lost the good will that comes from the consciousness on the part of the farmer of their interest and support.

Thousands of registration certificates bearing these Railway Shipping Vouchers have been issued and are in the hands of live stock producers. In their minds the Vouchers constitute a virtual guarantee of the reduced rates by the railways. If these are cancelled many of the Vouchers will still be presented with consequent confusion and development of resentment against the Railways if they are not honoured.

That, Mr. Chairman, is the Brief. I would like to

1. The first thing I noticed when I stepped out of the car was the cold. It was a sharp contrast to the warm blanket I had been sitting under. The air was crisp and clear, and I could see the snow-covered ground stretching out before me. I took a deep breath, feeling the cold air fill my lungs. It was a refreshing sensation, one that I had never experienced before.

2. As I walked further into the park, I noticed the silence. There were no children playing, no dogs barking, and no birds chirping. It was a complete stillness, a quiet that felt almost unnatural. I looked around, trying to find the source of the silence, but everything seemed so peaceful. The snow was falling gently, creating a soft, white carpet under my feet. I felt a sense of wonder, a feeling that I was witnessing something truly magical.

3. The snow continued to fall, and I found myself walking more slowly, savoring the moment. The trees were covered in a thick layer of white, their branches reaching out like giant hands. The ground was a smooth, unbroken expanse of snow, and the air was so clean that I could taste it. I felt a sense of peace, a feeling that I had found something I had been searching for. The world around me was so beautiful, so serene, that I felt like I had entered a dream.

4. I walked on, feeling the snow under my shoes. The cold was no longer a nuisance; it was a part of the experience. I felt a sense of freedom, a feeling that I was truly alive. The snow was falling so fast now, creating a thick, white curtain around me. I felt like I was in a secret world, a place where time stood still. The beauty of the scene was overwhelming, and I felt a sense of awe. I had never seen anything like this before, and it was all so perfect.

5. The snow was falling so fast now, creating a thick, white curtain around me. I felt like I was in a secret world, a place where time stood still. The beauty of the scene was overwhelming, and I felt a sense of awe. I had never seen anything like this before, and it was all so perfect. The snow was falling so fast now, creating a thick, white curtain around me. I felt like I was in a secret world, a place where time stood still. The beauty of the scene was overwhelming, and I felt a sense of awe. I had never seen anything like this before, and it was all so perfect.

6. The snow was falling so fast now, creating a thick, white curtain around me. I felt like I was in a secret world, a place where time stood still. The beauty of the scene was overwhelming, and I felt a sense of awe. I had never seen anything like this before, and it was all so perfect. The snow was falling so fast now, creating a thick, white curtain around me. I felt like I was in a secret world, a place where time stood still. The beauty of the scene was overwhelming, and I felt a sense of awe. I had never seen anything like this before, and it was all so perfect.

submit for filing purposes at this time copies of registration certificates showing the shipping voucher attached.

MR. COVERT: That would be Exhibit 147.

THE CHAIRMAN: What is it?

MR. COVERT: What do you call this, a voucher that is used --

A. It is a registration certificate.

Q. A registration certificate with voucher attached, shipping voucher attached to enable the shipper to get the reduced rate?

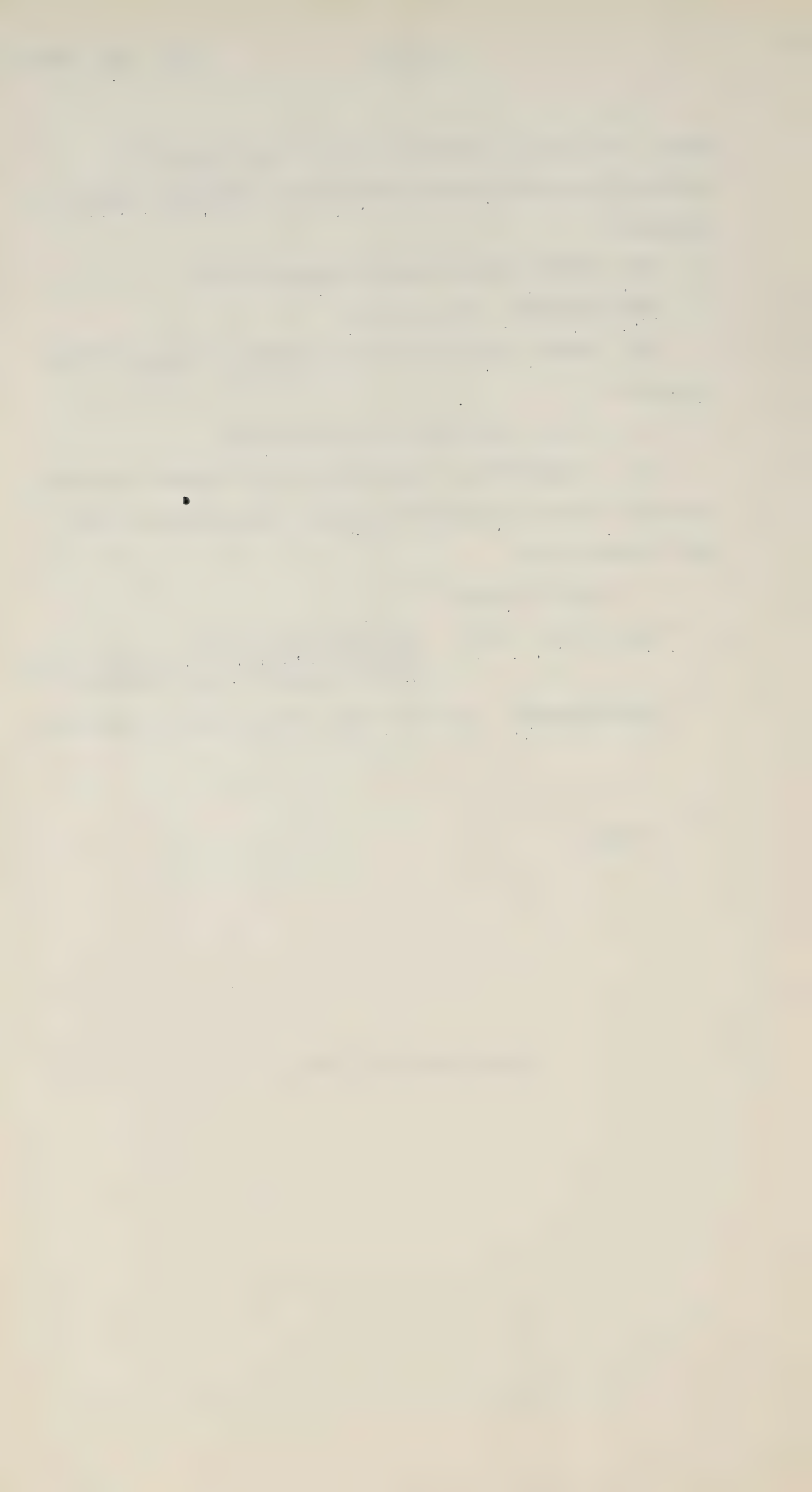
A. That is right.

- - -Exhibit No. 147:- filed by Mr. Powell.
Livestock Registration Certificate
with shipping voucher attached.

THE CHAIRMAN: We will take a five minute adjournment.

- - - RECESS

(Page 14260 follows)



CROSS-EXAMINATION BY MR. SINCLAIR

Q. My lord, the subject of pedigreed livestock has been put, as you know, many times on behalf of other breeding associations throughout the Commission's hearings in the West and the position of the railways in regard to that has been placed on the record and for that reason I do not propose to go into the matter again with Mr. Powell.

I have just two questions really to ask him, the first one being, would his Association think that rates on other commodities should be increased to a higher percentage so that special concessions should be given to the movement of pedigreed livestock?

A. I would say, yes.

Q. Now, on Page 3 of your brief you say:

"If these shipping vouchers are no longer attached to the registration certificates the railways will have lost the good will that comes from the consciousness on the part of the farmers of their interest and support."

Do you know of any instances where the farmers have evidenced their mutual interest in railway problems by coming forward and supporting them before the Board of Transport Commissioners for securing rates that would give them an adequate level of earnings?

A. No, I do not.

MR. FRIEL: No questions.

RE-EXAMINATION BY MR. COVERT

Q. Just a few questions, Mr. Powell, Your Association (you really represent two associations here). Have you any figures as to the membership in the associations?

A. The latest figure that I have is for 1948 --

28,650 members.

Q. That is in ...?

A. In the Canadian National Livestock Records and the Holstein-Friesian Association of Canada.

THE CHAIRMAN: How many?

A. 28,650.

MR. COVERT: Have you any figures at all which would indicate the number of livestock that are shipped under these rates in Canada?

A. No, I have not. I checked with the railways and tried to get those figures but they said they could not supply them.

Q. Now, in effect, it would seem from your brief that you are suggesting that because these rates have been in effect for so long a period, they should never be changed. Is that correct?

A. Well, at the time they were cancelled, the Saskatchewan Cattle Breeder's Association protested to the Board of Transport Commissioners and the Board of Transport Commissioners at that time said it was entirely a matter for the railway since it was a subnormal rate. Now, the railways gave us a hearing on it, but it so happened that they had cancelled the rate before they gave us the hearing and the reason that they gave, we felt, indicated that they had not gone into the background of the rates and consequently were not quoting the reason that was first set out for giving us these special rates.

We felt that they had not gone into it deeply enough. We also felt that if we had had a chance to present our side of the case before they went on record as definitely cancelling the rate, that we might have received some consideration. They were taking the human attitude that they had cancelled this stipulation, and, of course,

they were trying to back up their stand in cancelling them. We feel, therefore, that in a case where rates have been established for a long period of time, that before the railways should have authority to cancel them, that there should be some provision for a hearing of the case. Here the rates were summarily cancelled and we did not get a hearing until after we had protested it and actually did not have a hearing for a couple of months after the time they had cancelled the rates. We feel, therefore, where rates have been in effect for a lengthy period of time, that there should be a hearing, preferably before the Board of Transport Commissioners, before such rates could be cancelled.

THE CHAIRMAN: How long do you think would be a reasonable time?

A. I am not prepared to say that. I would think it would be a matter perhaps for the judgment of the Commissioners.

Q. How long were these rates in effect?

A. They were in effect for at least 45 years and probably longer; we cannot establish the exact date that they went into effect but we do know they had been accepted as an integral part of the industry and when they were cancelled it was quite a shock to the breeders of pure bred livestock.

MR. COVERT: Now, if there was a hearing before the Board of Transport Commissioners, presumably there would have to be some principles which would guide them on the hearing. For example, let us assume that the railways say that they are not compensatory. Would you suggest that the Board of Transport Commissioners should look at that? What considerations do you think the Board of Transport Commissioners should give in a case like that if there are to be rules and regulations dealing with cases

of that kind. What should be the guiding principle?
Have you any suggestions to make?

A. I would think that in a case of this kind when a hearing was held that they should check on the reasons why the rate was originally put into effect and see if those reasons still hold good and if they did, their finding, I would presume should be that the subnormal rate should still apply.

Q. Well, I noticed, for example, that you state that well over half of the total farm income was derived from livestock and livestock products. Have you some figures on that?

A. Yes, I have. This is from the Dominion Bureau of Statistics Report:

"The cash income from the sale of farm products in 1948 was made up as follows:

Livestock and livestock products	\$1,322,374,000
All other sources	\$1,148,237,000".

I call your attention to the fact that the income from livestock and livestock products is higher than from all other sources.

Q. I was going to suggest to you that if that is so perhaps, for example, it could be said that the livestock industry had perhaps got on its feet and had been properly encouraged and that if a case like that were presented to the Board, they might say: "Well now, the situation has changed from the time these rates were introduced." Do you think they might consider a matter of that kind?

A. In answer to that I would say that there has never been a time when the Federal Department of Agriculture and the Provincial Departments of Agriculture

have devoted more time and more effort towards increasing the quality of our livestock than at the present time.

Q. Then, would it be fair to suggest that perhaps assistance of this kind should come in that manner rather than from the railways?

A. As I pointed out in the brief, this has been a co-operative effort over the years. The Dominion Department of Agriculture have worked on various phases of the programme for improving the quality of livestock. The Provincial Governments have contributed their part and the railways have always worked towards the common goal largely through these special livestock rates and while the other two are putting forth a stronger effort than ever, it would seem that the railways were definitely withdrawing their support from the programme when they cancel these rates.

Q. Now then, one final question. You say in your brief that the revenue lost by the railways in thus encouraging the distribution of better seed stock has been small in relation to the increased figures received from the livestock industry. Have you any figures at all to support that?

A. No, I am sorry I have not.

Q. Have you another witness that you would like to have called?

A. Mr. W. Ray Wilson, I think.

COMMISSIONER INNIS: I wonder if you could tell us whether the fairs, for example, have been affected by the increase -- if there has been a diminution of interest in livestock fairs?

MR. COVERT: I think that is a different rate. This one, as I understand it, Dr. Innis, is the pure bred livestock rate and that is not the same as the rate for the

fairs.

COMMISSIONER INNIS: I thought they were together.

MR. COVERT: That is correct, is it?

THE WITNESS: That is correct, yes. May I suggest that perhaps you could hear from Mr. P. D. MacArthur at this time; I believe he has to catch a train.

MR. P. D. MACARTHUR CALLED

EXAMINED BY MR. COVERT

Q. Will you give the Commission your name?

A. Peter D. MacArthur.

Q. And you live where?

A. Howick, Quebec.

Q. And your occupation?

A. Farming -- livestock.

Q. Are you a member of the Holstein-Friesian Association?

A. The Canadian Ayrshire Breeders' Association and as such I am connected with the Canadian National Livestock Records.

(Page 14270 follows)

Q. Mr. Powell says you have something to add to this?

A. What I might add is that during all my experience in the livestock field I have enjoyed the privilege that has been accorded by the railways in this half rate for pedigreed livestock. It has been an impetus for the spreading of good livestock, particularly the better livestock, across the dominion. I need not repeat what has been said by Mr. Powell in that respect. It has redounded in the movement of livestock and livestock products to the benefit of the railways. We appreciate what the railways have done. My question when we first received the intimation was where have we fallen down that we should be sorted out for special treatment in that respect? I feel that it has been a co-operative effort which has been beneficial to all, and we appreciate that. We feel we have contributed to the success of the policy in so far even as it affects the railways, and it has been in existence for over forty years, and as such I question the wisdom of making that change at this time. I have not anything further to say other than you mentioned a while ago what effect will this have on exhibitions.

Let me say that I have had some experience in exhibiting, having exhibited livestock from Saint John, New Brunswick, to Edmonton in Alberta, and that would be completely impossible under existing conditions if these freight rates go into effect. It just would be out of the picture. We would have to depend upon some other way of exhibiting our livestock because after all our exhibitions are the show window for our better livestock, and as such I think they add materially to the value of our Canadian livestock in this country.

Q. Mr. MacArthur, suppose these rates had been

subjected to the increases that have been placed upon other commodities, the 21% increase and the 8% increase; would you have considered that to be fair?

A. You are speaking of the general increases?

Q. Yes?

A. I may say to correct that, that we are talking of rates. What we had was a half rate, half of the going rate, and that is our position. It is not that we want to maintain the rate that we had at the lower level some years ago, but half the going rate.

Q. In other words, if the going rate was \$1.20 you would have 60 cents?

A. That is right.

Q. And if the \$1.20 was increased to \$1.50 then you would have 75 cents?

A. That is right; that is the basis.

THE CHAIRMAN: Q. On page 1 of your submission you show that the regular rate per hundredweight is \$1.00. What is the distance involved there? What is the haulage entailed?

A. That is an example. It might be from Montreal to Toronto or Montreal to Quebec, Montreal to any point. That rate is just an example. That would be the prevailing rate for that distance, \$1, half of which would be 50 cents.

COMMISSIONER INNIS: Q. You have not any distance in mind?

A. No, nothing particularly.

THE CHAIRMAN: Q. But suppose you are travelling 100 miles, let us say?

A. The rate might be different.

Q. How much would it cost?

A. The rate might be different.

Q. At this rate how much would it cost?

A. I could not answer that. I will try to answer that by saying half the regular rate, whatever that was for that point. Half the rate would apply to pedigreed livestock.

COMMISSIONER INNIS: The Chairman would like to have it with reference to some specific mileage.

THE CHAIRMAN: Some specific haul and mileage.

MR. COVERT: I am getting that for you now, Mr. Chairman.

COMMISSIONER INNIS: Q. You cannot say whether the amount of traffic has fallen off? I suppose sufficient time has not elapsed?

A. No; I do know very definitely so far as exhibitions that it will fall off. It is utterly impossible.

Q. Have there been any complaints on the part of exhibitions?

A. Yes, there was at the meeting. I do not know if there was to the Board, but I think they registered their complaint last spring.

Q. The exhibitions have not sent any briefs to us.

THE ASSISTANT SECRETARY: The Royal Winter Fair is the only one.

MR. COVERT: I understand you would have to go about 1,500 miles to get a rate as high as \$1.

THE CHAIRMAN: Yes, where it would cost \$1 per 100 lbs., 1,500 miles.

THE WITNESS: May I point out something else that has occurred to me? If you go by the rate it is done on a weight basis. A calf has a certain limit which is a great deal beyond the actual weight of the calf. They are all on weights, and while we have objected to

that weight not being the actual weight -- it is not the actual weight; it is 3,000 pounds and then 4,000 pounds, and so on. There is no actual weight. In order to benefit by actual weight we ship by express, but we are talking of freight rates in this case. Very few calves weigh 1,000 pounds. I do not know of any, so that the half rate on the thousand pounds will still be more than the half rate on the actual weight. We are not finding fault with that, only pointing out that difference, that on the actual weight there is a benefit to the railways.

MR. COVERT: Q. In shipping these pure bred cattle, Mr. MacArthur, I suppose it is more expensive for the railways to ship pure bred cattle than ordinary livestock?

A. When you get over five head you ship at carload rates, and then there are no benefits at carload rates, but anything under five head we take advantage of the special rate.

MR. COVERT: Mr. Sinclair has called to my attention that the rates that they quoted to me before were carload rates, 20,000 pounds, and that on the less than carload rate it would be 170 miles for \$1 per hundredweight.

THE CHAIRMAN: The 1,500 mileage would be applicable to carload rates only, for carload lots?

MR. COVERT: Yes.

THE CHAIRMAN: Less than that it would be how much a hundred?

MR. COVERT: Approximately 170 miles for that \$1 rate.

THE CHAIRMAN: That is an enormous difference, is it not?

MR. COVERT: Yes, it is.

CROSS-EXAMINATION BY MR. FRIEL:

Q. You know, of course, that there are considerable movements by trucks carrying livestock?

A. Short hauls, yes, there are.

Q. Do they make any difference between pure bred and the other kind?

A. No.

THE CHAIRMAN: Q. Do they make any difference between pure bred and the other kind?

A. No, there is no different rate.

MR. FRIEL: That is all.

MR. COVERT: I understand there is one further witness, Mr. W. Raymond Wilson.

WILLIAM RAYMOND WILSON, CALLED

EXAMINED BY MR. COVERT:

Q. You live where?

A. Kenmore, Ontario.

Q. Are you associated with the Holstein-Friesian Association?

A. Yes, sir.

Q. What is your position with them?

A. Past president now; I was president a few days ago.

Q. You had something that you wanted to add to this brief?

A. Yes. In connection with the reason behind these rates we probably did not explain that as clearly or as fully as we should have. We did explain the fact that livestock and livestock products form a major part of the

agricultural production of Canada, and the efficiency of the production of these livestock and livestock products is based mainly on the quality of the breeding stock we can develop. It is the same as any other business in that respect. The higher the class of pure bred livestock we can breed in Canada the cheaper we can produce the bulk of the livestock and livestock products. It is in order to spread and increase the development and use of pure bred livestock that we have had these special rates in existence.

THE CHAIRMAN: Q. Those rates were granted about forty-five years ago?

A. Yes.

Q. And they have helped to build up the industry very considerably, of course?

A. Yes.

Q. Then of course the next question is whether it is necessary to continue them?

A. Well, we feel it is in this respect, that the breeding of better livestock and the more efficient production of livestock and livestock products is a continuous job. If I might be permitted to go back, seventy-five years ago our commercial livestock in no way resembled to any great extent the appearance which it has to-day. In other words, the efficiency of the dairy cow -- I am a dairyman -- has increased greatly over what it was fifty, sixty or seventy years ago, and we feel that in the coming forty or fifty years, or as far as we might wish to go, that efficiency will be still increased. If we are to spread the use of the better animals, in other words, increase efficient production of dairy products or meat products in the case of beef animals, and so on, we are going to do it by

the greater use of better pure bred individuals.

Q. Do I understand that your main ground of complaint is that these rates were increased this very great percentage without any proper notice to you and no proper opportunity to be heard about it?

A. Yes, coupled with the fact that, of course, we consider the need is there for these rates to be continued.

Q. I understand you to say in furtherance of that that when rates have been established for a considerable period of time they should be taken as fixed rates and not changeable except by order of the Board of Transport Commissioners? Is that right?

A. Yes.

Q. That is what you are asking for?

A. Yes. If I might go ahead and say this -- although we have not any figures -- Mr. Powell mentioned regarding the actual number of shipments and what it might have entailed in the way of loss to the railroads -- we readily admit it is not a compensatory rate. We do know this, that it was very, very small in comparison with the amount of general livestock shipped or livestock products, that the loss must be a very small percentage as far as the railroads are concerned. We could quote instances of areas in Canada, particularly in the newer settled areas, where the application of this half rate in the shipping of pure bred bulls, pure bred rams and pure bred boars, and so on, has been very instrumental in developing a strong and healthy live stock industry in those areas.

COMMISSIONER INNIS: Q. Can you tell us anything about the distances that tend to prevail in these shipments?

A. Yes. In some cases the bulls and breeding females might be shipped clean across the dominion. It might be anywhere from one hundred miles up.

Q. At one hundred miles would the trucks come into the picture?

A. Shipments within one hundred miles in most cases would be handled by trucks.

Q. But **it is** beyond that distance?

A. It is beyond that distance in general.

Q. You have not any idea of a general average as to how long the hauls would be?

A. No, that would be pretty hard to estimate. I would say the majority would probably be an average of three hundred miles or so.

Q. Is that true in your own case?

A. Yes, I would say so.

Q. About three hundred miles?

A. There will be the odd shipment of probably 1,500 or 2,000 miles, but the majority of shipments will be in a much shorter range.

(Page 14280 follows)

MR. SINCLAIR: Q. Do you know whether there is any movement of pedigreed stock from the west to the east, Mr. Wilson?

A. Yes, there is.

Q. Have you read the Canadian Pacific submission to this Commission?

A. No.

Q. Around pages 130 to 133 there is a suggestion that even the livestock rates are non-compensatory; so if you cut them in half, you have certainly got a non-compensatory rate, have you not?

A. That is right.

Q. Do you ship pedigreed bulls l.c.l.?

A. In some cases.

Q. Do you think, as a man who knows Holstein cattle, and as a breeder, that it is good practice to put other cattle in l.c.l. cars carrying pedigreed Holstein bulls?

A. Provided the health status is the same in both cases, it would not make too much difference.

Q. The general practice is to carry pedigreed livestock l.c.l. with about one animal to the car, is it not?

A. There are quite a number of cases of that; and then we have quite a few instances where a man wants to have a breed sire or a bull, when he is trying to build up a herd; so he will order only one animal.

Q. And you have seen pedigreed cattle, I mean cars with only one Holstein bull all across the country, with only one-half of the rate which we may say in the first instance may be non-compensatory; is that correct?

A. That is correct.

MR. COVERT: Thank you very much.

THE CHAIRMAN: That is all, thank you,
Mr. Wilson.

MR. COVERT: The next submission will be that of Canada Steamship Lines Limited, and Mr. Hazen Hansard will present the brief.

HAZEN HANSARD, K.C. Called.

THE WITNESS: Mr. Chief Commissioner and members of the Commission: I appear today for Canada Steamship Lines Limited. We have filed a brief with the Commission which is restricted to one question arising out of the brief filed by the Canadian National Railways. The brief is short and I believe it would be useful if I were to read it into the record. Only a limited number of copies were prepared. It is addressed to the Royal Commission on Transportation, and it reads:

Mr. Chairman and gentlemen: The present submission on behalf of Canada Steamship Lines Limited is largely restricted to the question of Agreed Charges, as raised more particularly in the submission of Canadian National Railways dated October, 1949. General observations on the transportation problem as affecting water carriers are however included to the extent deemed necessary and relevant to the discussion of that particular problem.

I. THE AGREED CHARGE

This exceptional method of arriving at the rate to be charged and paid for the transportation of goods was first introduced into Canada by the general legislation known as the Transport Act, 1938, by which forms of transportation (other than rail transportation) subject to Dominion jurisdiction were for the first time subjected to rate regulation. There is nothing mysterious about an "agreed charge", although its

nature appears to have been somewhat misunderstood. Apart from regulation, it is no more nor less than a private contract whereby a carrier undertakes to transport the goods of an individual shipper on terms more favourable than those offered by the carrier to the general public in its published tariffs. The "rate" or terms agreed upon between the carrier and the individual shipper must necessarily be sufficiently attractive to the latter to induce him to bind himself to ship all or an agreed portion of his goods by the facilities of the contracting carrier for a stated period or indefinitely; in other words, to give the contracting carrier a total or partial monopoly of his business for such period. Its effect of course is to deny to all other competing carriers the opportunity of competing for the business so tied up or of obtaining any portion of that business while the agreed charge remains in force, and this, whether or not such competing carriers or any of them may have enjoyed all or a part of that business theretofore. It is therefore the direct antithesis of normal rate making practice.

II. ACCEPTED PRINCIPLES OF RATE MAKING

For as long as there have been common carriers and regulation of their rates, it has been universally accepted in law and in practice: -

(a) That the facilities of the carrier must be made available to all comers;

(b) That the carrier shall charge equal rates for like services to all comers;

(c) That complete information as to the carrier's rates shall be made available to the public by means of published tariffs;

(d) That competing carriers shall be free to meet those rates; and

(e) That one carrier shall not offer "unremunerative" rates, whether for the purpose of capturing business from competitors or otherwise.

III. THE TRANSPORT ACT, 1938

This statute was passed at a time when a long period of business depression had produced severe competition between all forms of transportation for the limited traffic offering. By its terms the water lines and air lines were for the first time subjected to rate control and a strict system of licensing, based on public convenience and necessity, was introduced to limit further invasion of those fields. All forms of transportation wholly subject to Dominion legislative jurisdiction were placed under the regulative control as to their rates of the Board of Transport Commissioners which, as the Board of Railway Commissioners, had previously been concerned only with the control of rail rates. Highway transport was not covered by the statute because it fell almost entirely under Provincial jurisdiction, but the need for control of it was recognized, as indicated by the Bill to amend the Transport Act introduced in May, 1940. By this Bill it was proposed to place inter-Provincial and international highway transport under the same control. This Bill was never enacted as law because the session of Parliament terminated before it could be dealt with.

I have, since perpetrating that language, been informed, Mr. Chief Commissioner, that that Bill was defeated in the Senate. I have not checked it, but I am so informed. If that is so, it is a mistake and it has no bearing whatever on my submission.

It was not re-introduced because the magnitude of the war effort then under way removed

excessive competition between the transportation media as an immediate pressing problem. The express purpose of the Transport Act was clearly set forth in subsection (2) of Section 3 thereof in the following language:-

"(2) It shall be the duty of the Board to perform the functions vested in the Board by this Act and by the Railway Act with the object of co-ordinating and harmonizing the operations of all carriers engaged in transport by railways, ships and aircraft and the Board shall give to this Act and to the Railway Act such fair interpretation as will best attain the object aforesaid."

See in this connection the judgment of Lord MacMillan, speaking for the Privy Council in C.N.R. vs. C.S.L. (1945 A.C. 204) where he says at page 213:-

"There are wider considerations which lend support to the view which has commended itself to the majority of the learned judges of the Supreme Court and which commends itself to their Lordships. The Act of 1938 introduces important extensions and innovations in the transport law of Canada. It provides for the first time for the control of rates for transport by water and transport by air, as well as providing for the first time for agreed charges. The extension of the board's jurisdiction is not only signaled by the change in its name, but is accompanied by a special injunction addressed to it by Parliament as to the administration of its enlarged functions. Section 3, sub-s. 2, of the Act thus exhorts the Board - 'It shall be the duty of the Board to perform the functions vested in the Board by this Act and by the Railway Act with the object of co-ordinating

and harmonizing the operations of all carriers engaged in transport by railways, ships and aircraft and the Board shall give to this Act and to the Railway Act such fair interpretation as will best attain the object aforesaid.' It would be strange if in attempting to co-ordinate and harmonize the operations of all carriers by rail, water and air, the board were to be precluded, when performing their new and important duty of scrutinizing agreed charges, from considering their effect on the businesses of all carriers concerned in the traffic affected."

THE CHAIRMAN: We shall adjourn now until 10.30 tomorrow morning.

---At 4.45 p.m. the Commission adjourned until tomorrow, Tuesday, February 7, 1950, at 10.30 o'clock a.m.

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